

By: Representatives Lamar, Hulum,
Williamson, Stamps, Eubanks, Boyd (19th)

To: Ways and Means

HOUSE BILL NO. 1723

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

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

12 **SECTION 1.** (1) For the purposes of this section, the
13 following words and phrases shall have the meanings ascribed in
14 this section unless the context clearly indicates otherwise:

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

16 (b) "Eligible charitable organization" means an
17 organization that is exempt from federal income taxation under
18 Section 501(c)(3) of the Internal Revenue Code and is purchasing,
19 warehousing and delivering food directly to food pantries or soup
20 kitchens in more than five (5) Mississippi counties on a monthly
21 basis.



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

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



47 (3) A taxpayer taking a credit authorized by this section
48 shall provide the name of the eligible charitable organization and
49 the amount of the contribution to the department on forms provided
50 by the department.

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

56 (5) The eligible charitable organization's written
57 certification must be signed by an officer of the organization
58 under penalty of perjury. The written certification shall include
59 the following:

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

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

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

67 (6) The department shall review each written certification
68 and determine whether the organization meets all the criteria to
69 be considered an eligible charitable organization and shall notify
70 the organization of its determination. The department may also
71 periodically request recertification from the organization. The



72 department shall compile and make available to the public a list
73 of eligible charitable organizations.

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

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



97 not later than sixty (60) days from the date of the allocation.
98 If the contribution is not made within such time period, the
99 allocation shall be cancelled and returned to the department for
100 reallocation. Upon final documentation of the contribution, if
101 the actual dollar amount of the contribution is lower than the
102 amount estimated, the department shall adjust the tax credit
103 allowed under this section.

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

115 (9) The aggregate amount of tax credits that may be
116 allocated by the department under this section during a calendar
117 year shall not exceed One Million Dollars (\$1,000,000.00).

118 **SECTION 2.** Section 1 of this act shall be codified as a new
119 section in Chapter 7, Title 27, Mississippi Code of 1972.

120 **SECTION 3.** Nothing in this act shall affect or defeat any
121 claim, assessment, appeal, suit, right or cause of action for



122 taxes due or accrued under the income tax laws, insurance premium
123 tax laws or ad valorem tax laws before the date on which this act
124 becomes effective, whether such claims, assessments, appeals,
125 suits or actions have been begun before the date on which this act
126 becomes effective or are begun thereafter; and the provisions of
127 the income tax laws, insurance premium tax laws and ad valorem tax
128 laws are expressly continued in full force, effect and operation
129 for the purpose of the assessment, collection and enrollment of
130 liens for any taxes due or accrued and the execution of any
131 warrant under such laws before the date on which this act becomes
132 effective, and for the imposition of any penalties, forfeitures or
133 claims for failure to comply with such laws.

134 **SECTION 4.** This act shall take effect and be in force from
135 and after July 1, 2023, and shall stand repealed on June 30, 2023.

