

Mississippi Department of Revenue

Eligible Charitable Business Contribution Tax Credit

Income Tax
Technical Bulletin
TB 80-501-22-1

PURPOSE & SCOPE:

A tax credit is available for voluntary cash contributions to an eligible charitable organization (“ECO”). ECOs include educational services charitable organizations (“ESCO”) and pregnancy resource charitable organizations (“PRCO”). The amount of the credit is limited to fifty percent (50%) of the taxpayer’s total income tax liability, fifty percent (50%) of the taxpayer’s total insurance premium tax liability and, in the case of taxpayers not operating as a corporation, fifty percent (50%) of the total real property ad valorem tax liability. The tax credit may be carried forward for five (5) years.

Up to \$8,000,000 of the tax credits allocated during a calendar year may be allocated for contributions to ECOs that are either licensed by or under contract with the MS Department of Child Protection Services and provide services related to adoption and/or foster care related activities. No more than twenty-five percent (25%) of the credits may be allocated for contributions to a single ECO, resulting in a per ECO cap of \$2,000,000.

Up to \$8,000,000 of the tax credits allocated during a calendar year may be allocated for contributions to ESCOs. No more than five percent (5%) of the credits may be allocated for contributions to a single ESCO, resulting in a per ESCO cap of \$400,000.

Of the \$8,000,000 available for ESCOs, \$2,000,000 is allotted solely for contributions to Magnolia Speech School and \$1,200,000 is allotted solely for contributions to ESCOs that provide services to children who have a chronic illness or physical, intellectual, developmental, or emotional disability. Any contributions included in the \$2,000,000 credits not allocated before April 1, 2022, will be made available to all ESCOs. Any contributions included in the \$1,200,000 credits not allocated before April 1, 2022, will be made available to ESCOs that provide services to children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model, or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

Up to \$3,500,000 of the tax credits allocated during the 2022 calendar year and thereafter may be allocated for contributions to PRCOs. No more than fifty percent (50%) of the credits may be allocated for contributions to a single PRCO, resulting in a per PRCO cap of \$1,750,000.

REFERENCE(S):

Miss Code Ann. Section 27-7-22.41 and House Bill 1685 of the 2022 Regular Session.

OVERVIEW:

The tax credit is only available to a taxpayer who is a business enterprise engaged in commercial, industrial, or professional activities and operating as a corporation, limited liability company, partnership, or sole proprietorship. Taxpayers may utilize the credit against income tax, insurance premium tax, and insurance premium retaliatory tax. Taxpayers, not operating as a corporation, may also utilize the credit against ad valorem taxes on real property. A contribution to an ECO used for the Eligible Charitable Business Contribution Tax Credit cannot be used for the Charitable Contribution Tax Credit or the Foster Care Charitable Tax Credit. A contribution, for which an Eligible Charitable Business Contribution Tax Credit is claimed, may not be used as a deduction by the taxpayer for state income tax purposes.

How To Qualify as an Eligible Charitable Organization

To qualify as an ECO, the organization must submit a letter ruling request to the Mississippi Department of Revenue (“MDOR”) including the following:

1. Contact information including phone number, email address, mailing address, and physical address, if different from mailing address.
2. A statement, signed by an officer of the organization under penalty of perjury, that the organization meets all criteria to be considered an ECO.
3. A copy of the exemption letter from the IRS verifying that the organization qualifies under Section 501(c)(3) of the Internal Revenue Code.
4. A statement that the organization does not provide, pay for, or provide coverage of abortions and does not financially support any other entity that provides, pays for, or provides coverage of abortions.
5. A statement that the funds generated from the tax credit shall be used for educational resources, staff, and expenditures and/or other purposes described in Miss. Code Ann. Section 27-7-22.41.
6. Documentation that the organization is:
 - (i) Licensed by or under contract with the Department of Child Protection Services and provides services for the following:
 - a. The prevention and diversion of children from custody with the Department of Child Protection Services;
 - b. The safety, care, and well-being of children in custody with the Department of Child Protection Services; or
 - c. The express purpose of creating permanency for children through adoption.

OR

- (ii) An educational services charitable organization that provides services to:
 - a. Children in a foster care placement program established by the Department of Child Protection Services, children placed under the Safe Families for Children model, or children at significant risk of entering a foster care placement program established by the Department of Child Protection Services;
 - b. Children who have a chronic illness or physical, intellectual, developmental, or emotional disability; or
 - c. Children eligible for free or reduced-price meals programs under Miss. Code Ann. Section 37-11-7 or selected for participation in the Promise Neighborhoods Program sponsored by the U.S. Department of Education.

How to Qualify as an Educational Services Charitable Organization

Educating children must be the primary goal of an ESCO.

An ESCO provides instruction, tutoring, or training delivered by teachers or instructors that explain, tell, demonstrate, supervise, and direct to help students learn. They may provide opportunities for academic enrichment activities during non-school hours or periods when school is not in session, such as before and after school or during summer recess. Services can be provided through diverse means including internet or other electronic and distance learning methods as well as sign language.

Providing scholarships, day-care, therapy, or treatment does not qualify as educational services.

To qualify as an ESCO, the organization must submit a letter ruling request to the Mississippi Department of Revenue including the following:

1. The information requested in numbers 1 through 5 under “How to Qualify as an Eligible Charitable Organization,” as provided above.
2. The number of students served in Mississippi in each category in number 6(ii) a-c, above.
3. The total number of students currently served in Mississippi.
4. Documentation that the organization is accredited by a regional accrediting organization. Any state-owned accrediting office for public or nonpublic schools does not qualify as a regional accrediting organization.
5. A list of services provided by the organization.

How to Qualify as a Pregnancy Resource Charitable Organization

A PRCO is an organization that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code and is a pregnancy resource center or crisis pregnancy center eligible to receive funding disbursed by the Choose Life Advisory Committee under Miss. Code Ann. Sections 27-19-56.70, 27-19-56.277, and/or 27-19-56.412.

To qualify as a PRCO, the organization must submit a letter ruling request to the Mississippi Department of Revenue including the following:

1. The information requested in numbers 1 through 4 under “How to Qualify as an Eligible Charitable Organization,” as provided above.
2. Documentation that the PRCO is eligible to receive funding disbursed by the Choose Life Advisory Committee.

A letter acknowledging the approval or denial of the organization as an ECO will be issued. Please see our webpage concerning letter rulings for more information at: <https://www.dor.ms.gov/office-of-tax-policy>.

The MDOR maintains a webpage that lists all approved ECOs at: <https://www.dor.ms.gov/business/eligible-charitable-organizations-childrens-promise-act>.

The organization must notify the MDOR of any changes that may affect any of the qualifications

above.

How To Apply for The Credit

A taxpayer can apply to be pre-approved for allocation credits with the MDOR using either the Application for Contributions to Eligible Charitable Organizations, the Application for Contributions to Educational Services Charitable Organizations, or the Application for Contributions to Pregnancy Resource Charitable Organizations located at <https://www.dor.ms.gov/business/eligible-charitable-organizations-childrens-promise-act>. A letter response to the application will be sent within 30 days after receipt.

If the contribution has not been made at the time of the application, the MDOR will issue an allocation letter requesting that the applicant provide documentation that confirms the contribution has been made (i.e. a letter or receipt that includes the name of the organization, date of contribution, amount of contribution, and a statement of whether any goods and/or services were provided in exchange). The applicant has 60 days from the date of the allocation approval letter or by December 31 of the current year, whichever occurs first, to make the contribution. If the contribution is not made or if the MDOR has not been notified within a specified timeframe, the credit amount allocated will be cancelled and made available for allocation to other taxpayers.

If the contribution has been made, please attach the documentation from the ECO verifying the details of the contribution with the application.

Once both the application and documentation have been received, the Department will issue an allocation approval or denial letter.

Due to the per ECO caps in place, the time it will take to receive an approval or denial letter could be prolonged if payment or documentation of payment to an ECO is delayed.

Pass-through entities awarded credits must provide the MDOR with a schedule of amounts allocated to its members by the end of the taxable year.

All contributions must be completed during the calendar year to be claimed on the return.

How To Claim the Credit

The credit can be applied against up to fifty percent (50%) of the taxpayer's total income tax liability, fifty percent (50%) of the taxpayer's total insurance premium tax liability, and, in the case of taxpayers not operating as a corporation, fifty percent (50%) of the taxpayer's total real property ad valorem tax liability, not to exceed the total amount of the credit.

When filing the state income tax return claiming the income tax credit, the taxpayer must attach the Mississippi Tax Credit Summary Schedule showing all credits taken, any credit carryforward, and the name of the qualified ECO. The Eligible Charitable Business Contribution Tax Credit code is 36. The Tax Credit code for contributions to Pregnancy Resource Charitable Organizations is 39.

The ad valorem tax credit must be claimed by presenting the allocation approval letter to the tax collector's office in the county in which the ad valorem tax is due. The credit may be claimed upon receipt of the allocation approval letter and may be used in more than one county.

Credits claimed on the Insurance Premium Tax Return are to be reported on the appropriate line.

Documentation must be maintained by the taxpayer and provided upon request.