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S.B. 40
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. O'Brien

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SUMMARY

- Authorizes a nonrefundable credit against the state income or commercial activity tax for donations to a certified Ohio nonprofit pregnancy resource center that primarily serves Ohio residents and offers free or low-cost pregnancy resources and assistance.
- Allows the credit and any carryforwards to reduce up to 50% of a taxpayer's tax liability, without accounting for any other credits.
- Requires the Tax Commissioner to administer an application process to certify credit-eligible pregnancy resource centers that meet certain criteria.

DETAILED ANALYSIS

Credit for donations to certified pregnancy resource centers

The bill authorizes a nonrefundable tax credit against the state income or commercial activity tax (CAT) for donations to a pregnancy resource center that is certified by the Department of Taxation as meeting certain criteria (see "**Certification**," below).

Applying for the credit

A person that donates cash to a certified pregnancy resource center during a calendar year may apply to the Tax Commissioner for the credit. An application must state the amount of the donation, the tax against which the taxpayer will claim the credit, and any other information the Commissioner requires, and it must be submitted with a dated receipt or other document from the certified center verifying the donation.

The Commissioner must review credit applications in the order they are received and issue a determination on each application within 30 days after receipt. The Commissioner must provide a reason if an application is denied or, if approved, a tax credit certificate listing the amount of the credit the applicant may claim and the tax it can be claimed against (see, "**Claiming the credit**," below).

Approved credits are for the amount of the underlying donation, but no more than \$10 million in credits for donations to certified centers may be approved in a calendar year, and no more than \$5 million in credits may be approved for donations to the same certified center in a calendar year.¹

Claiming the credit

A person that has been issued a tax credit certificate must claim the credit against the tax listed on the certificate. If claimed against the CAT, the credit must be claimed for the tax period, i.e., the calendar quarter, in which the certificate was issued; if claimed against the income tax, it must be claimed for the taxable year the certificate was issued. The credit may reduce up to 50% of the taxpayer's tax liability, before accounting for any other tax credits. If the credit exceeds 50% of the tax liability, the unused amount may be carried forward and claimed against up to 50% of the taxpayer's tax liability for up to the five following years.²

For credits against the income tax, if the tax credit certificate is issued to a pass-through entity (PTE), such as an LLC or partnership, it may be allocated amongst the PTE's owners. The allocation may be made in proportion to the owners' interests in the entity, or in any amounts the owners agree. Once allocated amongst the owners, they may claim it against their individual income tax liability.³

Certification

To make its donors eligible for the credit, a qualifying pregnancy resource center must apply to be certified by the Tax Commissioner as meeting all of the following criteria:

- It is a 501(c)(3) organization;
- It has its principal office or a presence in Ohio;
- At least 50% of its clients claim to be Ohio residents;
- Its principal purpose is to provide free or low-cost assistance, which may include pregnancy testing, ultrasounds, counseling, material support, and similar services for pregnant women carrying their pregnancies to term;
- It is not a hospital, nursing home, or residential care facility;
- It does not perform, promote, or contract with an organization that performs nontherapeutic abortions, and is not affiliated (e.g., has certain legal ownership or control relationships) with a person that performs or promotes nontherapeutic abortions. A nontherapeutic abortion is one that is performed or induced when the life of the mother would not be endangered if the fetus were carried to term or when the pregnancy of the mother was not the result of rape or incest reported to a law enforcement agency.

¹ R.C. 5751.56(C).

² R.C. 5747.74(B) and (C) and 5751.56(E).

³ R.C. 5747.74(C).

Additionally, 501(c)(3) organizations that are licensed maternity homes serving primarily Ohio residents qualify as eligible pregnancy resource centers, if the home does not provide or promote nontherapeutic abortions.⁴ In general, maternity homes are residential facilities for pregnant women where accommodations, medical care, counseling services, and educational and recreational opportunities are offered during prenatal and postpartum periods.⁵

After receiving an application for certification, the Commissioner must determine whether the applicant meets these requirements and notify the applicant whether certification is granted within 30 days.

A certification does not expire at any particular interval. The Commissioner may, however, periodically request recertification. If the Commissioner does so, the certified center must resubmit all of the information required for initial certification and any other information the Commissioner requires to determine the center is still a qualifying pregnancy resource center. Additionally, a certified center must notify the Tax Commissioner of any changed circumstances that might affect eligibility within 60 days of their occurrence. The Commissioner is required to revoke certification of any center that no longer meets the qualifications described above.

The Tax Commissioner must maintain and post a list of all pregnancy resource centers that meet the certification requirements on the Department of Taxation's website.⁶

HISTORY

Action	Date
Introduced	01-28-25

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⁴ R.C. 5751.56(A)(4).

⁵ R.C. Chapter 3711, not in the bill.

⁶ R.C. 5751.56(B).