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# Pregnancy Options Tax Credit Act

*Model Legislation & Policy Guide*



*Advancing the Human Right to Life  
in Culture, Law, and Policy*

# PREGNANCY OPTIONS TAX CREDIT ACT

HOUSE/SENATE BILL No. \_\_\_\_\_  
By Representatives/Senators \_\_\_\_\_

## Section 1. Title.

This Act may be cited as the "Pregnancy Options Tax Credit Act."

## Section 2. Definitions.

**[Drafter's Note:** *These are recommended definitions, but some may not be compatible with a state's existing laws. Care should be taken to select only those definitions that are compatible with existing state law or with the intent of the proposed legislation (i.e., to modify or deviate from definitions in existing state law).]*

As used in this Act only:

- (a) "Department" means the Department of [enter appropriate department name], the secretary or duly appointed director of the [insert name of department], or any employee of the department exercising authority lawfully delegated to that employee by the secretary.
- (b) "Pregnancy Resource Center" means an organization or facility in this state:
  - (i) Which is established and operating primarily to provide pregnancy counseling or information as its primary purpose;
  - (ii) Which does not perform, induce, or refer for abortions and which does not hold itself out as performing, inducing, or referring for abortions;
  - (iii) Which provides its services at no cost to its clients;
  - (iv) Which provides direct client services at the facility;
  - [(v) Which provides medical services, when and if it does so, in accordance with [insert name of State] statute and regulations promulgated thereunder].
- (c) "Eligible charitable organization" means an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and is a Pregnancy Resource Center.
- (d) "Taxpayer" means a person liable for payment of any tax levied under the authority of the State of [State], a person responsible for withholding and payment over or for collection and payment over of any such tax or a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid.
- (e) "Business Enterprise" means any corporation subject to the taxes imposed by the [insert name of statute], and operating as a corporation, limited liability company, partnership or sole proprietorship.

### Section 3. Pregnancy Options Tax Credit.

(a) An eligible Taxpayer, which is not a Business Enterprise, may apply for, and the Department shall allow, a tax credit in an amount equal to the lesser of

- (i) *[fifty percent (50%)]* of voluntary cash contributions made to an Eligible Charitable Organization; or
- (ii) *[one thousand dollars (\$1,000).]*

Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

(b) An eligible Business Enterprise may apply for, and Department shall allow, a tax credit in accordance with Section 7 of the Pregnancy Options Tax Credit.

The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to:

- (i) an amount not to exceed *[fifty (50%)]* of the total tax liability of the taxpayer for the taxes imposed by such sections of law.

**[Drafter's Note:** *For a taxpayer that is not operating as a corporation, a credit is also allowed against ad valorem taxes assessed and levied on real property for voluntary cash contributions made by the taxpayer during the taxable year to an eligible charitable organization.*]

*[and (ii) an amount not to exceed [fifty percent (50%)] of the total tax liability of the taxpayer for ad valorem taxes assessed and levied on real property.]*

(c) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned.

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

### Section 4. Reporting.

The Department shall publish on its website credit claim forms within thirty (30) days of the effective date hereof. A credit claim shall accompany any return to which the Taxpayer wishes to apply an approved credit, and the claim shall specify the amount of credit intended to apply to each return.

### Section 5. Written Certificate of Eligibility.

An Eligible Charitable Organization shall provide the Department with a written certification on a form provided by the Department that it meets all criteria to be

considered an Eligible Charitable Organization. The organization shall notify the department of any changes that may affect eligibility under this section.

The Eligible Charitable Organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include the following:

- (a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;
- (b) 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;
- (c) Any other information that the Department shall reasonably require to administer this section.

The Department shall review each written certification and determine whether the organization meets all the criteria to be considered an Eligible Charitable Organization and notify the organization of its determination within sixty (60) days of the application's submission. The Department may also periodically request recertification from the organization on no less than an annual basis. The Department shall compile and publish on its website a list of Eligible Charitable Organizations.

#### Section 6. Allocation of Tax Credit.

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

#### Section 7. Application for Tax Credit.

(a) A Business Enterprise shall apply for approval for a credit within one year following the end of the calendar year in which the voluntary cash contributions are made to Eligible Charitable Organizations in *[Insert State name]*.

(b) A Business Enterprise having applied for and been granted approval for a credit by the Department pursuant to the Pregnancy Options Tax Credit Act may claim an amount of available credit against the Business Enterprise's tax liabilities; provided that the credit shall be claimed against the Business Enterprise's tax liabilities pursuant to *[Insert appropriate statute]*; provided further that no Business Enterprise may claim an amount of available credit for any reporting period that exceeds *[fifty (50)]* percent of the sum of the Business Enterprise's tax liabilities for that reporting period. Any amount of available credit not claimed against the Business Enterprise's tax liabilities for a reporting period may be claimed in subsequent reporting periods.

(d) As used in this section, "tax liabilities" means any tax liability a Taxpayer incurs pursuant to the *[Insert appropriate statute]*.

*[For the purposes of using a tax credit against ad valorem taxes assessed and levied on real property, a taxpayer shall present to the appropriate tax collector the tax credit documentation provided to the taxpayer by the Department, and the tax collector shall apply the tax credit against such ad valorem taxes. The tax collector shall forward the tax credit documentation to the Department along with the amount of the tax credit applied against ad valorem taxes, and the Department shall disburse funds to the tax collector for the amount of the tax credit applied against ad valorem taxes. Such payments by the Department shall be made from current tax collections.]*

#### Section 8. Allowable Amount of Tax Credits.

The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed *[Insert desired dollar amount]*. For credits allocated during a calendar year for contributions to eligible charitable organizations, no more than fifty percent (50%) of such credits may be allocated for contributions to a single eligible charitable organization.

For further information regarding this or other AUL policy guides, please contact:

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