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The Education Freedom Tax Credit¹

What it does: The Education Freedom Tax Credit [hereinafter tax credit] would provide a dollar-for-dollar tax break of up to \$1,700 for individuals and \$3,400 for married couples for donations to charitable organizations that provide vouchers for K-12 educational expenses, called “scholarship granting organizations.” A tax credit reduces the amount of federal income tax owed to the government. This is a unique tax credit because no other cause permits a dollar-for-dollar tax credit.²

SGO requirements: According to the U.S. Treasury Department’s recent proposed rules³, the “Scholarship Granting Organization” must:

- Be located in the state if the state opts into the program.
 - The proposed regulations define “located in a state” as the SGO is “authorized to do business in the state and is in compliance with the generally applicable state laws and requirements for charitable organizations in the state, including provisions for transparency, accountability, and fraud prevention.”
 - A single-state SGO is an SGO physically located and granting scholarships in one state. A multi-state SGO is an SGO authorized to do business and grants scholarships in more than one state.
- Be a 501(c)(3) organization and cannot be a private foundation.
- Prohibit the co-mingling of qualified contributions with other funds. All qualified contributions must be deposited into a §25F segregated account, for which books and records must be kept.
- Provide scholarships to 10 or more students who do not all attend the same school.
- Spend 90% of its income on scholarships.
 - For single-state SGOs, the proposed regulations permit a “safe harbor.” If 85% of a single-state SGO’s activities consist of “scholarship granting

¹ 26 USC §25F

² Typically, the value of tax deductions to charitable organizations or nonprofits is about \$.37 per dollar donated, but the actual savings depends on the taxpayer’s tax rate. The Tax credit would allow for a \$1 tax credit per \$1 donated, up to \$1700 for individuals or \$3400 for married couples. This would greatly disadvantage other charitable and nonprofit organizations because a tax benefit from donations to them will be much lower than the 100% credit for donation to SGOs.

³ <https://www.federalregister.gov/documents/2026/10/02/2026-20277/federal-scholarship-tax-credit>

activities,”⁴ then the SGO may apply the operational requirements to the segregated account and not the SGO as a whole. In other words, if an SGO provides scholarships under a state scholarship program and 85% of its activities consist of providing those scholarships, when the SGO sets up a §25F segregated account, the requirement that 90% of income be used solely on scholarships for qualified elementary and secondary education expenses would apply only to the §25F segregated account.

- Verify that scholarships are used only for qualified elementary and secondary education expenses, under §530(b)(3)(A), and are used by only eligible students within the state.
- Award scholarships with a priority for eligible students awarded scholarships for the previous school year and for eligible students who have a sibling who received a scholarship.
- Not earmark contributions for scholarships for specific students.

The proposed regulations would require that tuition, fees, room and board, or other similar expenses described in §530(b)(3)(A) that are charged by a school must be paid directly to the school. The proposed regulations would further permit an SGO to pay vendors directly if the vendor has been verified as an appropriate provider. The proposed rules do not define what constitutes a “vendor” or what services the vendor can provide.

For expenses not captured above, the proposed regulations would require that any money paid to the family of an eligible student be in the form of a qualified reimbursement as opposed to direct payments to families. A family of an eligible student must provide a receipt for a qualified expense to receive the qualified reimbursement, or “scholarship.” This would require a family to come out of pocket for the qualified expenses. The SGO must then verify the payment was actually made and that it was made for a qualified education expense.

If an SGO satisfies all statutory and regulatory requirements, a state must include it on the state’s list submitted to the U.S. Treasury Department.

Regulating SGOs: States must require that SGOs meet all state requirements for charitable organizations. However, the proposed regulations prohibit states from placing more requirements on SGOs than §25F(c)(5) of the Education Freedom Tax Credit law and proposed rule §1.25F-3(b) and (c) permit, such as limiting the types of schools that

⁴ “Scholarship granting activities” include administrative, fundraising, governance, investment, compliance, outreach, and other activities to the extent such activity is conducted in support of scholarship granting activities. The scholarship granting activities can be pursuant to §25F, a State tax credit scholarship rule, or any other scholarship granting activities.

scholarship recipients may attend or the types of expenses that qualify. Those sections lay out the requirements in the above “SGO Requirements” section.

Given the prohibition on states placing additional requirements on SGOs, it is unclear if states can require SGOs to be subject to the state’s antidiscrimination laws, which would prohibit SGOs from discriminating on the basis of race, sex, national origin, religion, etc. when granting scholarships. However, given the recent litigation around private entities providing scholarships to certain students and not others, federal law may prohibit SGOs from discriminating.⁵

Voucher eligibility: Any student who is a member of a household with an income up to 300% of the area’s median gross income adjusting by the HUD family-size multiplier would be eligible.⁶ For purposes of the proposed regulations, household income would include cash income only, and would exclude non-cash sources of income, such as imputed income on net assets. The Treasury Department and the IRS estimate that 95 percent of children are expected to be eligible for the scholarships.

The student must be eligible to enroll in public elementary or secondary school but does not have to currently be attending a public school. Additionally, the student must reside in the state in which the SGO is located. If a student resides in a state that does not opt in but attends a school in a state that has opted in, the student would not be eligible for a scholarship. Students in households that did not donate to an SGO could still receive the scholarship.

Allowable uses: The voucher can be used on “qualified elementary or secondary education purposes” for expenses incurred in connection with any public or private K-12 school, including tuition, curricula and curricular materials, books/instructional materials, online educational materials, tutoring (but only if the tutor is not related to the student and is a licensed teacher who has taught in a school previously), fees for nationally standardized tests, fees for dual enrollment in a higher education institution, educational therapies for students with disabilities, and homeschool expenses.⁷ Further guidance on what will be permitted as a qualified expense will be published by the end of the year.

⁵ <https://lawliberty.org/are-identity-based-scholarships-illegal/>

⁶ “To ensure consistency with the income limits used in section 42, the income limit must be calculated as the product of 300 percent of the area median gross income and the HUD family-size multiplier. For example, if a household of three lived in a location where the area median gross income was \$100,000, a child in this household could be eligible to receive a scholarship funded by section 25F if the household’s income was less than, or equal to, \$270,000 ($3 \times \$100,000 \times 0.90$). For a household of four living in the same area, this income limit would be \$300,000 ($3 \times \$100,000 \times 1.0$).”

<https://www.federalregister.gov/documents/2026/10/02/2026-20277/federal-scholarship-tax-credit>

⁷ 26 USC §530(3)(b)

An SGO may choose to limit the types of expenses the scholarships may go to, but states may not.

Voucher amount: There is no minimum or maximum voucher value and no requirement that it cover a certain portion of costs for educational expenses.

How the tax credit will be funded: It's unclear how the tax credit would be funded but presumably from cuts to federal agencies and programs.

Timeline: Each year by **Jan. 1**, (by Feb. 15, 2027, for the first year) the governor of a state or another entity designated by statute must opt in to the program and provide a list of the SGOs that meet the requirements in statute and are located within the state.

Impact on public schools:

There is no cap on the total federal tax credit payouts. It's unclear what the total cost of the program will be, but it will likely have an immense price tag. According to the Institute on Taxation and Economic Policy, if only 5 million people participate in the tax credit, the total cost would be more than \$8 billion per year in federal revenue. The IRS estimates that by 2030, 11 million taxpayers will make a qualified contribution, totaling \$26 billion annually in federal revenue.

Although public school students will be eligible to receive the scholarships, the purpose of this program is to expand school choice and benefit nonpublic schools. The vouchers, or qualified reimbursements, would not go directly to public schools, but to families. For a school to receive a scholarship, it would have to charge tuition, room/board, or for other expenses public schools do not charge for. Under Oregon law public schools cannot charge for admission or courses that are part of the regular school program. Public school should be free; that's the entire point. By opting into this system, we could end up with some school districts with robust scholarship granting organization partnerships charging families for additional programming under the assumption that scholarships would offset the cost. This could disproportionately benefit some districts and families while others receive no benefit or even worse, lose money. Public school should be free; that's the entire point. This will not be a program that will ultimately benefit public schools and, as seen in other states, will likely end up pulling money out of public schools.