



Client Alert

The 2027 Federal Scholarship Tax Credit: Public School Impact



Why should public school leaders pay attention to the new Federal Scholarship Tax Credit program? Because this is not simply a private school choice program. Students who remain enrolled in public schools may be able to use scholarship funds to access private educational services that supplement and augment the programs their public schools already provide—including tutoring, supplemental special education services, technology, and other qualified educational expenses. This creates a potentially significant new source of privately funded educational support for public school students and raises important opportunities and implementation questions for school districts, charter schools, and other public education agencies. With the program scheduled to begin January 1, 2027, public school leaders should understand how it works and begin considering what role their schools and communities may play. Read on for the details.

Last year, the federal government established the Federal Scholarship Tax Credit program as part of the One Big Beautiful Bill Act. The goal of the program is to increase school choice for families by funding scholarships for students who are eligible to enroll in a public elementary or secondary school. These scholarships are intended to cover the cost of qualified educational expenses for all eligible students. Notably, these expenses can include costs such as private school tuition and/or private services (to augment public and/or private educational programs) including, but not limited to, tutoring, supplemental special education services, and computer technology. For a donation to entitle a taxpayer to a tax credit under the program, the donation must be made to a state and federally designated scholarship granting organization (“SGO”). The SGO must be a 501(c)(3) nonprofit organization and must award scholarships to ten or more students who do not all attend the same school.

Any student whose household income is not more than 300% of the area median gross income is eligible to receive a scholarship under the program. The program requires that individual states affirmatively elect to participate in the program for each taxable year before students of that state can receive scholarships through

the program. To date, thirty states have opted to participate in the program when it begins on January 1, 2027. The complete list of states that have elected to participate in the program for 2027 can be found [here](#). Taxpayers can begin making donations to SGOs on January 1, 2027.

On October 1, 2026, the Internal Revenue Service (IRS) published temporary and proposed permanent regulations for the program, providing long-awaited guidance for families, nonprofit organizations, and school districts. The full text of the temporary and proposed permanent regulations can be found [here](#).

Temporary Regulations

Because donors can begin making SGO contributions on January 1, 2027, the IRS issued temporary regulations for the program that become effective on December 1, 2026. Under the temporary regulations, states are required to submit a list of qualifying in-state SGOs to the IRS by January 1 of each year. For 2027 only, states have until February 15, 2027, to provide their list of SGOs to the IRS. A state cannot add an SGO to its list mid-year. The IRS will maintain a list on its website of registered SGOs to allow taxpayers to review the list of eligible SGOs in each state. Each SGO must authorize the IRS, through the online SGO portal, to publish its name on the online list in order to be included.

The temporary regulations also allow for the establishment of multi-state SGOs. Under the temporary regulations, a multi-state SGO is defined as an SGO that is included on the SGO list of more than one state. Both states and SGOs will be required to register with the IRS through an online portal to participate in the program. Each state will be required to submit its list of SGOs through the IRS portal. In doing so, each state must certify that it has included all eligible in-state SGOs on its list. Further, each state must certify that all listed SGOs are in compliance with the program's SGO operating requirements such as awarding 90 percent of the SGO's income as scholarships (with some exceptions), only awarding scholarships to eligible students, and only providing scholarships for qualified educational expenses. Notably, the temporary regulations prohibit states from requiring SGOs to operate in a manner that is more restrictive than federal law. This means states cannot limit their listed SGOs to only those which award scholarships to certain types of schools or students.

Additionally, the temporary regulations require SGOs to provide a written acknowledgement to each donor documenting the total amount of the donor's contribution each year. SGOs must provide this written acknowledgement to taxpayers no later than January 31 after the year in which the contribution is made. The acknowledgement must also include a unique donor number, the SGO's employer identification number, and a statement of whether the SGO provided the taxpayer with goods or services for the taxpayer's contribution. Instructions for creating a donor number will be provided to SGOs through the IRS portal. Each SGO must provide the IRS with a list of donors, identified by unique donor numbers, who have made a contribution to the SGO each year.

Given that SGOs cannot be added to a state's SGO list mid-year, the temporary regulations allow a state to include on its SGO list any SGOs with pending tax exemption applications. If a state chooses to list an SGO awaiting its tax-exempt status, it must list all SGOs in the state that are awaiting tax exempt status. Further, for newly formed SGOs that have yet to provide information establishing that they satisfy the tax credit program's operational requirements, states can rely on the SGO's governing documents and policies to determine that the SGO satisfies the operational requirements of the program. However, the SGO's governing documents and policies used to verify the SGO's compliance must explicitly state that the organization is required to comply with the tax credit program's operational requirements.

Further, the regulations provide that the program does not alter the obligation of states to comply with the Individuals with Disabilities Education Act, including the requirement that schools provide a free appropriate public education to all eligible students. While the temporary regulations are set to expire on or before October 1, 2029, many of the provisions of the temporary regulations are included in the program's proposed permanent regulations.

Proposed Permanent Regulations

The proposed permanent regulations are currently in the public comment period of the federal rulemaking process. Comments on the proposed regulations are due to the IRS no later

than December 1, 2026. Although the regulations have not yet been adopted, the regulations state that taxpayers, SGOs, and states can "rely on" the proposed regulations prior to the full enactment of permanent regulations.

Under the proposed regulations, the definition of "school" is determined by using the definition of "school" under the law of each state. This means the requirement that an SGO provide scholarships to at least ten students who do not all attend the same school may vary from state to state. Further, the IRS's overview of the proposed regulations reiterates that a student does not need to actually be enrolled in a school to be eligible to receive a scholarship. Instead, the student must be eligible to enroll in a public elementary or secondary school to be eligible to receive a scholarship through the program. In determining whether a student meets the program's income threshold, the proposed regulations provide that a student's household income is to be calculated including alimony and child support payments. A student's household income would exclude any unrealized appreciation on property.

The proposed regulations also provide that students in foster care would automatically be considered to meet the program's income requirement regardless of actual household income. Additionally, certain special needs students or students receiving scholarships for academic tutoring who have been identified by their school as in being in need of additional educational services will also be treated as meeting the program's income requirement. Specifically, such students will be considered to satisfy the program's income requirement if either:

(1) the students' school is located in a low-income census tract or (2) the students' school certifies that at least 80 percent of the school's students reside in a low-income census tract, regardless of the school's location.

Further, the proposed regulations would allow SGOs to provide scholarship funds in three ways: (1) to a school, (2) to a third-party vendor, or (3) directly to a family that provides receipts to the SGO for qualified expenses. The regulations would also allow SGOs to utilize a "digital wallet" as a means of distributing scholarship funds. The qualified digital wallet would be an electronic payment platform run by a third-party provider. Families would submit purchase requests through the platform, which would track approved educational expenses and ensure that scholarship funds are spent only on qualified education expenses, either by paying pre-approved vendors directly or by requiring families to submit receipts.

The proposed regulations explicitly exclude guidance on what is considered a qualified educational expense under the program, stating that regulations regarding those expenses will be issued at a later date. This forthcoming guidance is expected to be helpful in determining the ability of students and schools, particularly public schools, in using scholarships to supplement existing educational programs.

Related Services

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- Student Rights & Discipline

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