ResearchReport

Federal Tax Incentives Program for K-12 School Scholarship Donations

By: George Miles, Senior Legislative Attorney
August 15, 2025 | 2025-R-0132

Issue

Summarize the tax provisions related to K-12 school scholarship donations enacted in the federal FY25 Reconciliation Law, which has commonly been referred to as the One Big Beautiful Bill Act (OBBBA) (i.e. P.L. 119-21, § 70411, with parts to be codified as 26 U.S.C. §§ 25F & 139K).

Summary

The new law creates a federal tax incentives program that, beginning with the 2027 tax year, generally:

1. allows individuals to receive a dollar-for-dollar, nonrefundable federal income tax credit for the first $1,700 they donate in cash to certain scholarship granting organizations (SGOs);

2. requires SGOs to devote at least 90% of their income to providing scholarships to eligible K-12 students for specific public, private, or religious school-related expenses (e.g., tuition, books, and computer equipment); and

3. exempts from federal income tax any scholarships a taxpayer or dependent receives from an SGO.

To qualify as an SGO and receive credit eligible donations and award tax exempt scholarships under the program, an organization must satisfy several requirements in the law and be located in a state that elects to participate in the program. States elect or “opt-in” to the program by submitting a list of qualifying organizations to the Treasury secretary by January 1 each year, and only those listed will qualify as an SGO under the program. For a donation to qualify for a credit, the

receiving SGO must use it to fund scholarships for eligible students solely within the state where it is listed.

Under the law, state opt-in elections must be made by a state's governor or another individual, entity, or agency designated under state law to make federal tax benefit elections (e.g., a vetoed bill in North Carolina (HB 87 (2025)) would have designated and required its North Carolina State Educational Assistance Authority to submit the SGO list for the state and trigger its participation).

Among other things, P.L. 119-21 allows taxpayers to carry forward credits for up to five years if they cannot fully claim them. It also prohibits taxpayers from claiming the law's tax credit and a charitable contribution deduction for the same donation. Similarly, it requires that each taxpayer's total federal credit be reduced by the amount of any state tax credits allowed for these donations.

Finally, the new law requires the Treasury secretary to issue regulations and guidance as needed, including on (1) enforcing SGO requirements and state participation elections and (2) recordkeeping and information reporting.

Eligibility Requirements

Students and Expenses

Under P.L. 119-21, students eligible for scholarships from an SGO must be (1) eligible to enroll in a public elementary or secondary school and (2) a member of a household with an annual income, for the calendar year prior to the scholarship application date, of 300% or less of the area median gross income (AMGI). The law does not specify the data that must be used to calculate AMGI but refers to the term that applies for purposes of the low-income housing credit. Assuming the law will use that AMGI, which is determined by the U.S. Department of Housing and Urban Development (HUD), 300% of AMGI in Connecticut appears to currently range from $330,000 to $446,700 based on the most recent data for FY25 (see this HUD webpage).

The new law requires that scholarships cover "qualified elementary or secondary education expenses." This is an existing term under the federal tax code for Coverdell education savings accounts, which are tax deferred accounts that may be used to save for certain education expenses. Generally, under this law, expenses may be for:

1. tuition, fees, academic tutoring, special needs services, books, supplies, and other equipment in connection with enrolling or attending a public, private, or religious elementary or secondary school;

2. room and board, uniforms, transportation, and supplementary items and services (including extended day programs) that are required or provided by a public, private, or religious school; and

3. computer technology or equipment or internet access and related services, if they will be used during school years (26 U.S.C. § 530(b)(3)(A)).

Scholarship Granting Organizations

Beyond being included on a participating state's annual list to the Treasury secretary, organizations must satisfy several other requirements to qualify as an SGO. Specifically, each organization must:

1. be a tax-exempt 501(c)(3) charitable organization that is not a private foundation;

2. maintain separate accounts exclusively for donations under the law to prevent co-mingling of funds;

3. provide scholarships to 10 or more students who do not all attend the same school;

4. spend at least 90% of its income on scholarships for eligible students;

5. award scholarships only for qualified elementary or secondary education expenses;

6. prioritize scholarships first for students awarded scholarships the previous school year and then for their siblings;

7. not earmark or set aside contributions for any particular student;

8. verify the annual household income and family size of scholarship applicants to make sure they satisfy the student eligibility requirements; and

9. not award scholarships to any "disqualified person," as determined based on rules similar to those applicable to self-dealing by private foundations (e.g., presumably, substantial contributors and their family members would be disqualified, see 26 U.S.C. § 4946).

GM:ms