INTERNAL REVENUE
BULLETIN

IRS

Bulletin No. 2026–48
November 23, 2026

# HIGHLIGHTS OF THIS ISSUE

**These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.**

## EMPLOYEE PLANS

### Notice 2026-66, page 984.

Section 415 of the Internal Revenue Code provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limits for cost of living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under § 415. Under § 415(d), the adjustments are to be made under adjustment procedures similar to those used to adjust benefit amounts under § 215(i)(2)(A) of the Social Security Act.

## EXEMPT ORGANIZATIONS

### ANN. 2026-18, page 1000.

Revocation of IRC 501(c)(3) Organizations for failure to meet the code section requirements. Contributions made to the organizations by individual donors are no longer deductible under IRC 170(c).

### ANN. 2026-19, page 1001.

Revocation of IRC 501(c)(3) Organizations for failure to meet the code section requirements. Contributions made to the organizations by individual donors are no longer deductible under IRC 170(b)(1)(A).

## EXEMPT ORGANIZATIONS, INCOME TAX

### REG-117199-25, page 1002.

The proposed regulations address the nonrefundable Federal tax credit for qualified contributions to scholarship granting organizations made in 2027 and later taxable years to fund qualified elementary and secondary school education scholarships. The proposed regulations would affect taxpayers who make such qualified contributions, States that elect to participate by certifying organizations as scholarship granting organizations, and the organizations that have been certified as scholarship granting organizations by one or more electing States.

### T.D. 10057, page 964.

The temporary regulations implement certain requirements and procedures for States that make elections to participate in this Federal tax credit and organizations that have been certified as scholarship granting organizations by one or more participating States. The temporary regulations affect such States and organizations, and individuals who make qualified contributions to scholarship granting organizations.

## NOTICE

### Notice 2026-69, page 986.

Sections 4375 and 4376 impose a fee on issuers of specified health insurance policies and plan sponsors of applicable self-insured health plans to help fund the Patient-Centered Outcomes Research Trust Fund (PCORTF). The PCORTF fee is determined by multiplying the applicable dollar amount for that year by the average number of lives covered during the year. The applicable dollar amount is based on increases in the projected per capita amount of National Health Expenditures, as most recently released by HHS. Notice 2025-61 provided that the adjusted applicable dollar amount for policy years and plan years ending on or after October 1, 2025, and before October 1, 2026, is $3.84. The notice provides that the adjusted applicable dollar amount that applies for determining the PCORTF fee for policy years and plan years ending on or after October 1, 2026, and before October 1, 2027, is $4.05.

**Finding Lists begin on page ii.**

## INCOME TAX

**Rev. Proc. 2026-35, page 988.**
This revenue procedure sets forth inflation-adjusted items for 2027 for various Code provisions as in effect on November 5, 2026. The inflation adjusted items for the Code sections set forth in section 2 of this revenue procedure are generally determined by reference to § 1(f) of the Code. To the extent amendments to the Code are enacted for 2027 after November 5, 2026, taxpayers should consult additional guidance to determine whether these adjustments remain applicable for 2027.

# The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

# Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

**Part I.—1986 Code.**
This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

**Part II.—Treaties and Tax Legislation.**
This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

**Part III.—Administrative, Procedural, and Miscellaneous.**
To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

**Part IV.—Items of General Interest.**
This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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# Part I

*26 CFR 1.25F-1T; 26 CFR 1.25F-4T; 26 CFR 1.25F-5T*

## TD 10057

## DEPARTMENT OF THE TREASURY
## Internal Revenue Service
## 26 CFR Part 1

## Federal Scholarship Tax Credit

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations that address the new nonrefundable Federal tax credit for qualified contributions to scholarship granting organizations made in 2027 and later taxable years to fund qualified elementary and secondary education scholarships. The temporary regulations implement certain requirements and procedures for States that make elections to participate in this Federal tax credit and organizations that have been certified as scholarship granting organizations by one or more participating States. The temporary regulations affect such States and organizations, and individuals who make qualified contributions to scholarship granting organizations.

**DATES:** *Effective date*: These temporary regulations are effective on December 1, 2026.

*Applicability date*: For dates of applicability, *see* §§ 1.25F-1T(b), 1.25F-4T(f), and 1.25F-5T(f).

**FOR FURTHER INFORMATION CONTACT:** Concerning these temporary regulations, Constance Chien, (202) 317-7009, or Andrew Fahmy, (202) 317-6487 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Authority**

This document amends 26 CFR part 1 (Income Tax Regulations) by adding temporary regulations that address certain aspects of the application of the credit available for qualified contributions under section 25F of the Internal Revenue Code (Code),[1] as added by section 70411 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

The temporary regulations are issued under section 25F(h), which expressly delegates authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) to issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of section 25F, including regulations or other guidance (1) providing for enforcement of the requirements under section 25F(d) and (g), and (2) with respect to recordkeeping or information reporting for purposes of administering the requirements of section 25F. The temporary regulations also are issued under the express delegation of authority in section 7805(a) of the Code, which authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

**Background**

As added by section 70411(a) of the OBBBA, the nonrefundable income tax credit under section 25F (section 25F credit) is allowed to an individual who is a citizen or resident of the United States (within the meaning of section 7701(a)(9)) who makes qualified contributions to a "scholarship granting organization" (SGO). Pursuant to section 70411(c)(1) of the OBBBA, the provisions of section 25F apply to taxable years ending after December 31, 2026. Additionally, for taxable years ending after December 31, 2026, section 139K, as added by section 70411(b) of the OBBBA, excludes from the gross income of individuals or their dependents any amounts received after December 31, 2026, pursuant to SGO-provided scholarships for qualified elementary or secondary education expenses of eligible students. *See* section 70411(c)(2) of the OBBBA.

A notice of proposed rulemaking (REG-117199-25) containing a comprehensive set of proposed regulations under section 25F (proposed regulations) is published in the Proposed Rules section of this issue of the **Federal Register** and provides detailed information regarding the provisions of section 25F and the proposed regulations, including requirements for an organization to qualify as an SGO, for a contribution to qualify as a "qualified contribution" eligible for a section 25F credit, and for a State to qualify as a "covered State" that participates under section 25F.

The temporary regulations contained in this Treasury decision provide reporting and recordkeeping requirements for SGOs and requirements for elections that States must make to participate under section 25F. The proposed regulations satisfy the requirement of section 7805(e)(1) for proposed regulations to be published concurrently with the publication of temporary regulations. The text of the proposed regulations is identical to the text of the temporary regulations at §§ 1.25F-1T, 1.25F-4T(b) and (c), and 1.25F-5T (except that the temporary regulations cross-reference other provisions of the temporary regulations and do not refer to any provision of the proposed regulations). Interested persons are directed to the **ADDRESSES** and **COMMENTS** and **PUBLIC HEARING** sections of the preamble to REG-117199-25 for information on submitting public comments or requesting to testify at, or attend, the public hearing for the proposed regulations.

[1] Unless otherwise indicated, all section references are to the Internal Revenue Code or the Treasury Regulations issued thereunder.

**Explanation of Provisions**

I. Definitions.

Section 1.25F-1T provides definitions of terms generally applicable for purposes of applying the temporary regulations, including certain defined terms explained in this part of the Explanation of Provisions to provide additional context.

1. *Located in the State*

Section 25F(g)(1)(A) states that an electing State must provide a list of the SGOs that meet the requirements described in section 25F(c)(5) and are located in the State. In responding to a request for feedback in Notice 2025-70, 2025-50 I.R.B. 773, many stakeholders suggested that "located in the State" should mean registered to do business in the State and in compliance with otherwise applicable State laws for nonprofit organizations. Some of these stakeholders stated that requiring a physical headquarters or in-State staff would be unnecessary, inconsistent with existing State tax credit programs, and would significantly hinder effective multistate SGOs that are well-positioned to deliver scholarships at scale.

Other stakeholders stated that an SGO should be required to have a physical presence in the State if required by State law, arguing that "located in the State" straightforwardly means headquartered in the State, rather than simply being authorized or registered to solicit donations there. These stakeholders stated that the phrase "located in the State" appears in more than 90 sections of the U.S. Code and that none could be read to mean "authorized to operate." Many of these stakeholders expressed the concern that allowing large multistate SGOs to be located in a State where they did not have a physical presence might limit a State's ability to implement its educational policies.

Section 1.25F-1T(a)(10) provides that an organization is "located in a State" if the organization 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.[2] The Treasury Department and the IRS have determined that this definition is consistent with the legislative purpose of section 25F to increase access to scholarship funds.

2. *Qualified contribution*

Section 1.25F-1T(a)(12) provides that a "qualified contribution" is a charitable cash contribution made by an individual to an SGO to the extent it is designated as such by the donor at the time of contribution. If the SGO provides any goods or services as consideration for any part of the contribution, then the value of those goods and services must be subtracted from the amount of the charitable contribution to arrive at the amount of the qualified contribution.

For this purpose, the term "cash" means physical currency, check, money order, electronic transfer (including, for example, by credit or debit card), after-tax payroll deduction, or other similar method, in each case all in U.S. dollars, but does not include any digital assets.

Under this definition, a donor is required to designate to the recipient SGO, at the time of making the contribution, that the contribution is intended to be a qualified contribution, which requires the SGO to deposit the contribution into the SGO's section 25F segregated account as part of the SGO's compliance with sections 25F(c)(3) and 25F(c)(5)(B). If the SGO is a multistate SGO, the donor would be able to direct the recipient SGO to allocate the qualified contribution to the multistate SGO's section 25F segregated account for any one or more of the covered States on whose State SGO list the SGO appears. Once a qualified contribution has been deposited into an SGO's section 25F segregated account, the SGO must use the funds in accordance with the operational requirements in section 25F(d) to maintain its status as an SGO.

3. *Scholarship granting organization*

Section 1.25F-1T(a)(16) provides that a "scholarship granting organization" or "SGO" is an organization defined in section 25F(c)(5). Accordingly, donations made to an organization that generates State tax credits may or may not give rise to a section 25F credit, depending on whether the organization separately satisfies the Federal tax law requirements to be an SGO for purposes of the section 25F credit. For example, a contribution to an organization that qualifies for State tax credits but is not included on the State SGO list of one or more covered States in which the SGO is located, does not give rise to the section 25F credit.

Notice 2025-70 recognized that organizations may fundraise and award scholarships in more than one State and distinguished an organization that is located in only one State (single-State organization) from one that is located in more than one State (multistate organization). The temporary regulations preserve this distinction in § 1.25F-1T(a)(20), defining a "single-State SGO" as an organization included on the State SGO list of only one covered State, and § 1.25F-1T(a)(11), defining a "multistate SGO" as an SGO that is included on the State SGO list of more than one covered State.

Although § 1.25F-5T(e)(2) clarifies that a State may not narrow the required elements of an SGO as described in section 25F(c)(5), any particular SGO may narrow its own focus and adopt more stringent requirements than those applicable under section 25F. For example, an SGO may choose to limit its scholarships for qualified elementary and secondary education expenses to specific subject matter areas such as science or foreign languages, or to students whose household income is less than 80 percent of the area median gross income, provided that the SGO meets the statutory and regulatory requirements for SGOs. The Treasury Department and the IRS assume that SGOs will publicize their particular missions, the scope of their scholarships for eligible students, and their successes in achieving

[2] However, § 1.25F-5T(e)(2) prohibits covered States from imposing requirements on SGOs that are more restrictive than the requirements in section 25F(c)(5).

better student outcomes, in order to attract more qualified contributions from taxpayers supportive of their mission.

## II. Reporting and Recordkeeping Requirements for SGOs

### *A. Overview*

Pursuant to the authority granted by section 25F(h)(2), § 1.25F-4T provides rules requiring electronic registration and contribution reporting by SGOs. Section 1.25F-4T(b) describes the mandatory registration process for organizations through the IRS SGO portal. Section 1.25F-4T(c) provides the requirements for an organization's acknowledgement, recordkeeping and reporting for the receipt of amounts designated as qualified contributions.

### *B. Mandatory registration through IRS SGO portal*

In determining how to enforce and administer the requirements of section 25F, the Treasury Department and the IRS considered paper or electronic communications and determined that an IRS SGO portal provides the most efficient way to interact with SGOs in a timely manner. Section 1.25F-4T(b) requires an organization to register electronically through the IRS SGO portal, which allows each organization to obtain instructions for creating a unique donor number, based on a uniform format to be used by all SGOs, and report qualified contribution information to the IRS. The organization also uses the IRS SGO portal to periodically authorize disclosure of the organization's name and identifying information on the IRS SGO list for a calendar year, available on *https://www.irs.gov*. An organization must authorize such disclosure if it wants the IRS to publish such information on the IRS SGO list.

Because an organization will not be able to generate the unique donor number to provide to a donor until the organization registers in the IRS SGO portal, and because a donor will need that unique donor number to substantiate a qualified contribution, § 1.25F-4T(b)(2) requires an organization to complete the registration process with the IRS as soon as possible and preferably before the organization appears on any State SGO list.

Section 1.25F-4T(b)(3) describes the information required to register, specifically: the organization's name, IRS employer identification number (EIN), address, telephone number, and year of formation; the name of a person whom the IRS may contact if there is an issue with the organization's registration; the organization's taxable year; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as provided in guidance. Section 1.25F-4T(b)(4) provides that the IRS will review the information provided to verify that all the required information has been submitted and will provide instructions to the organization for creating a unique donor number in a uniform format to be used by all SGOs, for each donor who has designated at least one payment to the organization as a qualified contribution to the SGO during the calendar year.

### *C. Donor acknowledgement and reporting of qualified contributions received by SGOs*

Notice 2025-70 asked what information SGOs should be required to provide to their donors, including whether SGOs should be required to provide the donor with written substantiation in order for the donor to take the section 25F credit. Many stakeholders recommended that SGOs provide a standardized donor acknowledgement form to taxpayers that would include the donor's name and address, the name of the SGO and its EIN, and the amount of the qualified contribution. Other stakeholders suggested that SGOs should not be responsible for reporting the particulars of a donation, other than informing donors that the donation could be eligible for the section 25F credit.

Section 1.25F-4T(c)(1) requires the organization to transmit a timely written acknowledgement to each donor with respect to qualified contributions made by such donor during the calendar year. Section 1.25F-4T(c)(1)(i) requires the timely written acknowledgement to include: the organization's EIN; the total amount of contributions made by the donor to the organization during the calendar year that the donor designated as qualified contributions; the unique donor number provided to the donor; a statement as to whether the organization provided any goods or services in consideration for any qualified contributions made by the donor; and a description and good faith estimate of the value of any such goods or services. Section 1.25F-4T(c)(1)(ii) requires organizations to provide the timely written acknowledgement to the donor no later than January 31 of the calendar year following the calendar year in which the donor made a qualified contribution. The timely written acknowledgement may be provided in writing or in any other form acceptable to the donor, including by electronic delivery if the donor consents to receiving the statement electronically and has not withdrawn the consent before the statement is furnished.

Section 1.25F-4T(c)(2) requires organizations to report information about qualified contributions to the IRS. Section 1.25F-4T(c)(2)(i) requires the following information to be reported with respect to each unique donor number assigned by the organization: the donor's name and address; the aggregate amount of qualified contributions made by the donor to the organization during the calendar year; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F, as may be described in further guidance. Section 1.25F-4T(c)(2)(ii) requires organizations to report this information no later than February 28 of the year following the calendar year in which such qualified contributions were made. Unless otherwise provided in guidance, the reporting is required to be done through the IRS SGO portal in accordance with the instructions provided therein.

## III. State election, State SGO list and certification of SGOs

### *A. Overview*

Section 1.25F-5T provides rules for a State election and a State's identification and certification of organizations located in the State that are SGOs. Section 1.25F-5T(b) describes rules for the State to register in the IRS State section 25F portal, which, except for the first year for

which the State makes an election, may be used for the submission of the State election (including advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in accordance with guidance. Section 1.25F-5T(c) describes the requirements for a State election. Section 1.25F-5T(d) provides rules regarding the State SGO list, including information and certifications a State is required to provide for each organization included on the State SGO list and procedures a State is required to use in determining whether an organization is an SGO. Section 1.25F-5T(e) addresses State administrative requirements for SGOs.

*B. IRS State section 25F portal*

Notice 2025-70 stated that the Treasury Department and the IRS anticipated that the forthcoming proposed regulations under section 25F would require the State to electronically submit the State election, the State SGO list, and certification to the IRS. Commenters supported an electronic process for States to submit State SGO lists, as they considered electronic submissions to be more efficient and timelier than paper submissions. Thus, § 1.25F-5T(b) requires a State that chooses to participate under section 25F to register for and use the IRS State section 25F portal in accordance with the instructions therein.

Section 1.25F-5T(b)(2)(i) provides that the Governor of the State or such other individual, agency, or entity as is designated under State law to make elections with respect to Federal tax benefits on behalf of the State may authorize up to two designated officials to register for and use the IRS State section 25F portal. Section 1.25F-5T(b)(2)(ii) requires each designated official to be an elected official, the Director of Taxation, or an appointed official of the State. Section 1.25F-5T(b)(3) requires States to obtain or be assigned a special-purpose EIN for purposes of registering. The IRS will inform States how to obtain this EIN, and States will not be required to use a Form SS-4, Application for Employer Identification Number, for these purposes. Section 1.25F-5T(b)(4) requires that the following information be provided to register: the special-purpose EIN; contact information, including the name, official title, telephone number, and email address of the State's designated officials; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

At the conclusion of the registration process, a State will be able to electronically transmit through the IRS State section 25F portal its State election (including advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in future guidance.

To mitigate the risk of any State's implementation issues for the first year for which the IRS State section 25F portal will be operational, the IRS is considering the creation of alternative temporary procedures that would be outlined in future guidance to help ensure that all States that wish to participate under section 25F are reasonably able to complete their registration for the IRS State section 25F portal or otherwise submit the State election and State SGO list.

*C. State election*

*1. In general*

Section 1.25F-5T(c) provides the procedure for making a State election. Section 1.25F-5T(c)(1) provides that, except as provided in § 1.25F-5T(c)(3), the State election may be made either as an advance election that is perfected through the submission of the State SGO list or as an election made with such submission.

Several stakeholders recommended restricting a State's ability to "opt out" after having made an election. Many stakeholders stated that States should not be able to opt out on a year-to-year basis, as families and students will rely on these scholarships for multiple years. However, in response to that feedback and to clarify the application of section 25F(g), § 1.25F-5T(c)(1) confirms that an election to participate under section 25F is made only for a single calendar year, and that all of the requirements in § 1.25F-5T(c) must be satisfied for each year for which an election is made. The advance election procedure in § 1.25F-5T(c)(3), discussed in part III.C.2. of this Explanation of Provisions, enables a State to opt in for an upcoming calendar year by making an advance election and then later, in effect, opt out by failing to perfect the election in accordance with § 1.25F-5T(c)(3)(ii). The Treasury Department and the IRS do not interpret section 25F(g) as allowing for any revocation once a State has completed its State election for the year, including an advance election that has been perfected.

As described in section 25F(g)(1)(B), § 1.25F-5T(c)(2) specifies that an election must be made by the Governor of the State or by such other individual, agency, or entity as is designated under State law to make such elections on behalf of the State with respect to Federal tax benefits.

*2. Advance election procedure*

Notice 2025-70 stated that the Treasury Department and the IRS read section 25F(g) to provide that an election by a State to participate under section 25F may be made prior to or contemporaneously with the submission of the State's list of all organizations located in the State that satisfy the definition of an SGO. On December 12, 2025, the Treasury Department and the IRS issued Rev. Proc. 2026-6, *Advance Election to Participate Under Section 25F for 2027*, to allow States, including the District of Columbia, to make an Advance Election to participate in a new tax credit for calendar year 2027.

Section 1.25F-5T(c)(3) provides guidance for States on how to submit an election in advance of the submission of the State SGO list, including guidance for States that have submitted an advance election for 2027 on Form 15714, *Advance Election to Participate Under Section 25F for 2027*. A State's failure to timely perfect its advance election by providing its State SGO list for a calendar year by the specified date in § 1.25F-5T(c)(3)(ii) would result in a failure to meet the requirements of section 25F(g), effectively preventing any organization in the State from qualifying as an SGO for the calendar year for which the advance election was not perfected.

Section 1.25F-5T(c)(3)(iii) provides that the IRS will maintain and publish on *https://www.irs.gov* a list of States that have made an advance election.

*3. Timing of State elections under § 1.25F-5T(c)(3)(i) and (c)(4)*

Section 1.25F-5T(c)(3)(i) identifies the time period during which an advance election may be made and § 1.25F-5T(c)(4) identifies the time period during which a State election may be made with the submission of the State SGO list.

Notice 2025-70 stated that the Treasury Department and the IRS anticipated that the forthcoming proposed regulations under section 25F would require each State electing to participate under section 25F for the 2027 calendar year to submit to the IRS, by a specified date before January 1, 2027, the State's list of organizations located in that State meeting the requirements of section 25F(c)(5) for the 2027 calendar year along with the State's certification under section 25F(g)(2), and that those forthcoming proposed regulations would include a similar requirement for submission of an annual list and certification from each electing State for subsequent years.

Section 1.25F-5T(c)(3)(i)(A) provides that, except as otherwise provided in the transition rule in § 1.25F-5T(c)(3)(i)(B), a State may submit an advance election through the IRS State section 25F portal on or after January 2 and on or before September 30 of the calendar year immediately preceding the calendar year for which the election is being made. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

Section 1.25F-5T(c)(3)(i)(B) provides a transition rule for the first calendar year for which the State makes an election. Section 1.25F-5T(c)(3)(i)(B)(*1*) provides that, for calendar year 2027, a State must submit an advance election on Form 15714 on or before January 1, 2027. Section 1.25F-5T(c)(3)(i)(B)(*2*) provides that, for future years, a State making its first election to participate under section 25F must submit an advance election as provided in future guidance. Consistent with these transition rules, § 1.25F-5T(c)(4) provides that, for the first year in which the State is electing to participate under section 25F, it cannot make its election with the submission of the State SGO list.

During the last three months of the immediately preceding calendar year or on January 1 of the year for which the election is being made, a State may make its election to participate under section 25F either as part of submitting its State SGO list for that year with the required information and certifications, or by perfecting its advance election made under § 1.25F-5T(c)(3)(i)(A) by providing its State SGO list for that year with the required information and certifications.

Several stakeholders requested clarification that the deadline for an election to participate for the 2027 calendar year should be after January 1, 2027, consistent with section 25F(g)(1)(A). For calendar year 2027 only, a State must submit its advance election on or before January 1, 2027, however, the State may perfect its advance election by submitting its State SGO list on or before February 15, 2027.

Some stakeholders recommended clarifying that the election deadline for calendar years after 2027 should be no later than 11:59 pm on January 1 of the calendar year, to accommodate an election made by a Governor who is newly inaugurated. The Treasury Department and the IRS agree and clarify that, for these purposes, "on or before January 1 of that year" means up to 11:59 pm on January 1.

*4. Certifications and other required information for State elections*

Section 1.25F-5T(c)(5) requires that the person with authority to make the State election, or a designated official, certify that the individual, agency, or entity making the State election has the authority to make the State election on behalf of the State, and the person authorizing any individuals as designated officials under § 1.25F-5T(b)(2) has the authority to do so.

In addition, § 1.25F-5T(c)(5) requires the person with authority to make the State election or a designated official to:

(1) Provide the enacted statutory or regulatory provisions that are binding on the State and establish the authority of an individual to make the State election on behalf of the State, if the individual making the election is not the Governor of the State (or the Mayor of the District of Columbia);

(2) Provide the required information and certifications for each SGO on the State SGO list;

(3) Certify that the State SGO list includes every organization located in the State that is seeking inclusion on the State SGO list, that meets the definition of an SGO, and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements;

(4) Provide the certification of State policies and procedures required for its State SGO list in § 1.25F-5T(d)(6);

(5) Describe any tax credit (including relevant State statutes, regulations, and other authoritative guidance) available under State law for contributions made to SGOs during the calendar year for which the State is electing to participate under section 25F; and

(6) Provide any other information and certifications described in future guidance.

*D. State SGO lists*

*1. Overview*

Section 3.03 of Notice 2025-70 stated that the Treasury Department and the IRS interpret section 25F(g) as requiring each covered State to verify that each organization on the State's list satisfies all the requirements of section 25F(c)(5). Section 3.04 of Notice 2025-70 further stated that the Treasury Department and the IRS anticipate that States will be required to have implemented, and to comply with, various procedures to verify that the required information submitted by the covered State is accurate and complete. Section 3.04 of Notice 2025-70 requested comments on what types of uniform policies, procedures, recordkeeping, or other requirements would be reasonable to ensure States can reliably verify that each organization meets the requirements of section 25F(c)(5), and, for States with similar programs, how those States determine whether organizations are meeting applicable requirements.

Many stakeholders favored self-attestation by SGOs that they met the requirements of section 25F(c)(5) so as to avoid the need for any State-level review process, stating that requiring States to verify compliance is overly burdensome and

could discourage participation. Several stakeholders expressed concern that providing States with significant discretion over organizations seeking certification as an SGO would permit State officials to discriminate against organizations based on factors other than compliance with the requirements of section 25F. Some stakeholders requested explicit limits on State authority to prevent intrusion into SGO operations, as well as an appeals process for any organizations excluded from a State's list based on the State's administration of SGO requirements.

Section 1.25F-5T(d) provides guidance on State SGO lists. Section 1.25F-5T(d)(2) and (3) describe the information and certifications required as part of the State's election or advance election for a calendar year. Section 1.25F-5T(d)(4) provides a transition rule for an organization that has not yet been required to provide information and certifications. Section 1.25F-5T(d)(5) provides a procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS. Section 1.25F-5T(d)(6) requires a State to make a certification regarding its policies and procedures. Section 1.25F-5T(d)(7) provides rules for changes to a State SGO list, and § 1.25F-5T(d)(8) provides rules for the removal of an SGO from the IRS SGO list. Section 1.25F-5T(d)(9) provides for the publication of the names of covered States and their State SGO lists on *https://www.irs.gov*.

*2. Information the State is required to provide about each SGO on its State SGO list*

Section 1.25F-5T(d)(2) sets forth the information that a State must provide annually with respect to each organization named on the State SGO list, including the name, the EIN, address, and telephone number of the organization; whether the organization has received recognition as a public charity under section 501(c)(3) (section 501(c)(3) public charity), or has a pending application for such recognition; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

*3. Certifications the State is required to provide about each SGO on its State SGO list*

Except as provided by the transition rule described in part III.D.3. of this Explanation of Provisions, § 1.25F-5T(d)(3) requires the State to certify that, with respect to each organization included on the State SGO list, the organization is located in the State and the organization prevents the co-mingling of qualified contributions with other amounts by maintaining a segregated section 25F account exclusively for qualified contributions, depositing all qualified contributions into its section 25F segregated account, and maintaining a complete set of books and records for its section 25F segregated account. The State also must certify that the organization satisfies each of the operational requirements in section 25F(d) and that the State has determined whether the SGO is a single-State or multistate SGO, reviewed the annual financial and programmatic audit report the organization is required to provide to the State, reviewed annual certifications and other information the organization is required to provide to the IRS and investigated any failure by the SGO to provide the required certifications and other information and has become reasonably satisfied that the SGO has corrected the failure, if possible, or has put in place procedures to prevent future failures. Finally, a State must certify that the organization satisfies any other requirements the IRS deems necessary for purposes of administering section 25F as may be described in future guidance.

The Treasury Department and the IRS request comments on the certifications States are required to make in accordance with § 1.25F-5T(d)(3), including any other certifications that should be required for a multistate SGO. Comments are also requested on whether any certification is disproportionately burdensome compared to the benefits to tax administration.

*4. Transition rule for an organization that has not yet been required to provide information and certifications to the IRS*

In recognition of the fact that much of the required reporting is of data derived from operations in the prior fiscal year, § 1.25F-5T(d)(4) provides a transition rule for recently formed entities and other organizations without such historical data that have not yet been required to report on their operations as an SGO. This transition rule allows the State to rely on the organization's governing documents or bylaws, written policies and procedures, and other documentation the organization provides to the State as part of its request to be included on its State SGO list, reducing the burden on the State for this type of SGO.

However, for each year for which such an organization is included on the State SGO list during this transition period, § 1.25F-5T(d)(4) requires the State to determine that the organization's provisions, policies, and procedures expressly require the organization to satisfy the operational requirements in section 25F(d), and that the documentation and information available to the State evidences the organization's ability and intent to satisfy such operational requirements. Section 1.25F-5T(d)(4) also requires the organization to concurrently provide the State with a copy of any information and certifications required to be provided to the IRS before the end of the transition period.

*5. Procedure for when an organization's application for recognition of tax-exempt status is pending with the IRS*

Section 1.25F-5T(d)(5) allows a State to include on its State SGO list those organizations whose applications for recognition of tax-exempt status are pending with the IRS, but only if the State includes on its State SGO list all organizations seeking inclusion on that list whose application for recognition of tax-exempt status is pending with the IRS, the State has complied with the requirements of § 1.25F-5T(d)(4) for each organization, and the State makes the required certifications regarding the organization's tax-exempt status. The required certifications include that the organization has applied for tax-exempt status as a section 501(c)(3) public charity, the organization's tax-exempt status, if granted, will be effective retroactively to a date that is on or before January 1 of the year for which the State SGO list applies, and the State SGO list indicates that such organization's tax-exempt status is pend-

ing IRS recognition. Whether tax-exempt status will be effective retroactively to a date on or before that January 1 of the year for which the State SGO list applies is determined by the date of the formation of the organization, the date of its application for recognition of tax-exempt status, and whether any material changes to the organization's activities were required for it to qualify for exemption. *See* section 6.09 of Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

As provided in § 1.25F-5T(d)(9)(ii), which is discussed in part III.D.8 of this Explanation of Provisions, the IRS will add each of these organizations to the IRS SGO list upon determining that the organization qualifies for tax-exempt status as a section 501(c)(3) public charity, if the organization consents to being included on the IRS SGO list.

*6. Certification of State policies and procedures*

Section 1.25F-5T(d)(6) requires a State to certify that its policies and procedures, including its procedures for assessing and responding to audit results, enable the State to make its own determination that each organization on the State SGO list is located in the State, is in compliance with section 25F(c)(5)(A) and (B) and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements. Section 1.25F-5T(d)(6) also requires that a State certify that its policies and procedures provide for the prompt removal of an organization from the State SGO list, and notification to the IRS through the IRS State section 25F portal of such removal, upon a determination that an organization is not an SGO or does not meet the applicable State requirements. A State must certify that its policies and procedures require any publicly available lists of SGOs maintained by the State to be identical to the most recently submitted State SGO list and include the IRS SGO list's URL (Uniform Resource Locator). Finally, § 1.25F-5T(d)(6) requires that the State certify that its policies and procedures ensure that the State's procedures before and after the removal of an organization from the State SGO list are fairly administered and afford due process in accordance with applicable Federal and State laws.

*7. Changes to State SGO list*

Section 1.25F-5T(d)(7)(i) and (ii) provide guidance regarding the time period during which a State may replace or supplement its State SGO list for a calendar year. A State may replace or supplement its State SGO list for a calendar year at any time before the deadline for perfecting or completing an election for that year by submitting the change in the IRS State section 25F portal in accordance with future guidance. A State will not be able to make any additions to the State SGO list for a calendar year after that deadline; instead, any additions a State seeks to make after such deadline may be included as part of the State's submission of its State SGO list for the following calendar year.

Section 1.25F-5T(d)(7)(iii) provides that a State may remove an SGO from its State SGO list at any time during the calendar year to which that list applies. If an SGO requests to be removed from a State SGO list, the State is required to comply.

Many stakeholders requested guidance regarding the State's discretion in removing an SGO from the State SGO list. Stakeholders expressed concern that States could remove SGOs arbitrarily or for political reasons and sought rules to ensure transparency and uniformity regarding the removal process. In response, § 1.25F-5T(d)(7)(iii) provides that a State may remove an organization from its State SGO list if the State determines, through a procedure providing due process to the organization, that the organization is not located in the State, does not satisfy the requirements for an SGO in section 25F(c)(5)(A) or (B), or is not operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements. In each event, the State must indicate the removal and its effective date on its State SGO list and promptly notify the IRS so the IRS can remove the SGO from the IRS SGO list for the current year. The organization will be removed from the relevant part of the IRS SGO list for the current year to ensure that any contributions to the organization after the date of its removal from the State or IRS SGO list are not treated as qualified contributions.

*8. Removal of a non-compliant organization from the IRS SGO list*

Section 1.25F-5T(d)(8) provides the list of circumstances under which an organization may be removed from the IRS SGO list. Under § 1.25F-5T(d)(8)(i), the IRS will remove an organization from the IRS SGO list following its determination that the organization is not a section 501(c)(3) public charity or automatic revocation of the organization's tax-exempt status by function of section 6033(j). Section 1.25F-5T(d)(8)(ii) further provides that the IRS may remove an organization following its determination that the organization has failed to comply with a requirement of section 25F (other than the tax-exempt status requirement in section 25F(c)(5)(A)), or has failed to comply with the applicable reporting and recordkeeping requirements, including a failure to report qualified contributions in accordance with § 1.25F-4T(c). This IRS determination of non-compliance with the requirements of section 25F is a Federal tax controversy under section 7803(e)(3) and § 301.7803-2, which provides the organization an opportunity to seek review by the IRS Independent Office of Appeals in the time and manner prescribed in applicable forms, instructions, or other administrative guidance. Under § 1.25F-5T(d)(8)(iii)(A), the IRS will remove an organization from the part of the IRS SGO list for a particular covered State upon notification that it has been removed from the State SGO list of that covered State.

Finally, § 1.25F-5T(d)(8)(iii)(B) provides that, if a multistate SGO that is removed from a State SGO list under § 1.25F-5T(d)(8)(iii)(A) continues to satisfy the operational requirements in section 25F(d) and one or more other covered States' applicable requirements as described in § 1.25F-5T(e)(1), the SGO will remain on the IRS SGO list with respect to such other covered States, subject to any further discretionary examination of the SGO by such other covered States or the IRS.

*9. Publication of covered States and State SGO lists*

Section 1.25F-5T(d)(9)(i) provides that the IRS will maintain and publish the IRS SGO list on *https://www.irs.gov*. For those SGOs that have authorized the disclosure of their information on the IRS SGO list, the IRS SGO list will contain each SGO included on a State SGO list for each of the covered States for the calendar year and reflect each removal from a State SGO list and the date of the removal. If an SGO is removed from the IRS SGO list, its name and identifying information will be displayed in strike-through text, along with the date of the organization's removal from the list, to provide taxpayers with the information they may need in determining if their contribution is being made, or was made, to a valid SGO and thus is a qualified contribution eligible for the section 25F credit.

Section 1.25F-5T(d)(9)(ii) provides for updating the IRS SGO list to include an organization whose tax-exempt status was pending when the State SGO list was submitted. Upon determining that the organization qualifies for tax-exempt status and that the effective date of such tax-exempt status is on or before January 1 of the calendar year for which the State SGO list applies, the IRS will add the organization to the IRS SGO list for that year as soon as the organization gives permission to be included on that list.

The publication of an IRS SGO list is consistent with feedback requesting that the IRS publish information to facilitate taxpayers' ability to determine which tax-exempt organizations are eligible to receive qualified contributions.

*E. State administrative requirements*

Stakeholders submitted a broad range of comments regarding the level of discretion the State should have in reviewing and certifying SGOs. Concerns were raised that States might seek to prioritize particular types of schools or students, or otherwise implement State education policies in a manner inconsistent with section 25F.

Section 1.25F-5T(e) provides guidance on State administrative requirements. Section 1.25F-5T(e)(1) provides that a State must require that SGOs meet all generally applicable State requirements for charitable organizations, including any State requirements that any organization must satisfy to be authorized to do business in the State and to solicit charitable contributions in the State. Additionally, States are required to impose certain application, documentation and financial reporting requirements that are reasonably tailored to support the State's determination that the organization satisfies the operational requirements in section 25F(d), and to facilitate the prevention and detection of fraud or abuse, including the misuse of scholarship funds such as through the duplication of scholarship awards to the same student for the same qualified elementary or secondary education expense.

Section 1.25F-5T(e)(2) prohibits a State from requiring SGOs to operate in a manner that is more restrictive than the requirements set forth in section 25F(c)(5), such as by limiting the type of school that scholarship recipients may attend or the types of qualified elementary or secondary education expenses for which scholarship funds may be used. This prohibition is responsive to stakeholder feedback expressing concern that permitting States to impose additional requirements on SGOs or to exercise discretion to exclude an otherwise qualifying organization from the State SGO list could lead to arbitrary determinations and improper discrimination.

Section 1.25F-5T(e)(3) provides that the procedures a State implements in accordance with § 1.25F-5T(e) are subject to Federal review. Upon discovering a pattern of irregularities or noncompliance, the IRS, in its discretion, may require a State to modify its procedures to ensure that its determinations regarding an organization's location in the State, and its satisfaction of the operational requirements in section 25F(d) are being administered in accordance with the applicable statutory, regulatory, and appropriate State-level requirements.

Nothing in section 25F or these temporary regulations would alter States' obligations to comply with all other applicable Federal and State law, for example, the requirements under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et. seq.*

**IV. Applicability Date**

These temporary regulations under §§ 1.25F-1T, 4T, and 5T apply on or after September 1, 2026, so that the Treasury Department and the IRS have procedural rules in place with which to develop the necessary implementation processes. *See* section 7805(b)(2). The temporary regulations expire on October 1, 2029.

**Special Analyses**

**I. Good Cause**

The Administrative Procedure Act (5 U.S.C. Subchapter II) provides that advance notice and the opportunity for public comment are not required with respect to a rulemaking when an "agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

The Treasury Department and the IRS find that good cause exists for making these temporary regulations immediately effective without notice and comment, including because failure to do so would be impracticable, contrary to the public interest, and against the intent of Congress.

Congress intended for the section 25F credit to be available for taxpayers making contributions beginning in taxable year 2027. Beginning on January 1, 2027, individual taxpayers will be able to make contributions to any eligible SGOs that have been certified by the States on whose SGO list they appear. The States' election to participate and certification of SGOs are critical prerequisites to implementing the section 25F credit. As Congress expressly required in section 25F(g), States that voluntarily elect to participate under section 25F are required to annually submit a list of SGOs located in the State that meet the requirements described in section 25F(c)(5).

Additionally, to facilitate the proper administration of the section 25F credit, SGOs must be required and able to track contributions received that are designated as qualified contributions that may give rise to credits to individual taxpayers as of January 1, 2027.

In order for the section 25F credit to operate as intended by Congress, taxpayers require certainty that a State has certified that an SGO satisfies the statutory requirements of section 25F prior to donating funds to organizations beginning on January 1, 2027. It is therefore important to immediately put into effect the necessary State certification procedures and recordkeeping requirements for SGOs.

The process of State certification of SGOs requires the State to ensure that each organization seeking to appear on its list of SGOs has met the criteria found in section 25F(c)(5). This certification process requires SGOs to submit certain documentation to support their assertion that they meet the statutory requirements. The State can only then review the submissions and, upon the State's certification that an organization meets the criteria set forth in section 25F(c)(5), include the organization on its list of SGOs for the following calendar year.

In addition, it is critical for SGOs to understand the necessary recordkeeping requirements for contributions to ensure that all section 25F credits claimed by taxpayers for a given taxable year correspond to verifiable qualified contributions. These requirements help maintain the integrity of the section 25F credit by preventing duplication and improper or excessive credits being claimed.

The Treasury Department and the IRS find that failure to make these temporary regulations effective prior to notice and comment would be contrary to the public interest. Without these temporary regulations, the IRS would be unable to ensure that States are able to adequately review applicant SGOs, complete their elections to participate under section 25F (or to perfect advance elections), and certify the SGOs that meet the statutory requirements before January 1, 2027. These temporary regulations must be issued promptly to allow enough time for organizations to submit the required documentation to States participating under section 25F, and for States to determine whether each organization meets all of the statutory requirements for inclusion on the State SGO list.

Additionally, the SGO reporting requirements must be made effective through these temporary regulations so that each SGO may obtain instructions for creating unique donor numbers that will be used to validate qualified contributions to the SGO. Taxpayers may begin making qualified contributions on January 1, 2027. The first step in an SGO creating standardized unique donor numbers is an electronic registration process that is completed through the IRS SGO portal before January 1, 2027. Registration will allow SGOs to obtain instructions for creating unique donor numbers for donors in a uniform format to be used by all SGOs and to authorize disclosure of their identifying information, allowing the IRS to include SGOs that have provided such authorization on the IRS SGO list. Accordingly, these requirements must be implemented before the time qualified contributions begin to be made on January 1, 2027.

The public interest is served by the certainty that these temporary regulations will provide to taxpayers, SGOs, and States. The Treasury Department and the IRS expect that many new SGOs will be created, and these temporary regulations will provide those organizations certainty in their formation and operations and will reduce the costs of uncertainty that would result if final regulations are not issued prior to taxpayers making contributions that they expect will be eligible for the section 25F credit.

The Treasury Department and the IRS also find that good cause exists for making these temporary regulations immediately effective because it would be impracticable to comply with the notice and comment process in time to achieve the previously described results intended by Congress. The section 25F credit involves novel issues, including federalism aspects, that interact with established tax law in complicated ways. This credit requires the creation of new IRS portals to interface both with SGOs and States, significant actions by States in identifying and certifying SGOs and ongoing administration with respect to SGOs, and IRS publication of the IRS SGO list, each of which must be developed before January 1, 2027. In addition, the IRS must establish systems to facilitate matching of reported qualified contributions against individual income tax returns. Each of these features presents unique tax administration challenges. In order to facilitate implementation of the section 25F credit, rules addressing the submission of State elections, SGO lists, and certifications and SGO registration and recordkeeping of contributions must be implemented by January 1, 2027.

The Treasury Department and the IRS understand the need to carefully consider all public comments and provide robust responses to all relevant comments. The limited time available between the publication of proposed regulations and the effective date of the section 25F credit, at which point State lists of SGOs must be certified and submitted and contributions may begin to be made, is insufficient to receive, review, and meaningfully respond to public comments. Since the enactment of the OBBBA, and especially since the release of Notice 2025-70, the Treasury Department and the IRS have been actively engaged with stakeholders and have been responsive to feedback, some of which has been incorporated in these temporary regulations. Furthermore, there would not be sufficient time after the receipt of public comments on proposed regulations to make any necessary changes to the applicable procedures or to the State and SGO portals in time for the January 1, 2027, effective date of the section 25F credit.

Comments are being solicited in the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**. Any comments will be considered before final regulations are issued.

## II. Regulatory Planning and Review—Economic Analysis

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

These temporary regulations, and the notice of proposed rulemaking (REG-117199-25) published elsewhere in this issue of the **Federal Register**, have been designated by the Office of Management

and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and OMB regarding review of tax regulations. OIRA has determined that these temporary regulations and the corresponding proposed rulemaking are economically significant and subject to review under section 3(f) of Executive Order 12866 and section 1(c) of the Memorandum of Agreement. Accordingly, these temporary regulations, and the proposed regulations contained in the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register,** have been reviewed by OMB. Please refer to part I of the Special Analyses section of the notice of proposed rulemaking for the Regulatory Planning and Review discussion.

Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(a) of E.O. 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of E.O. 14192 requires that the "new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs" associated with prior regulations. A significant regulatory action (as defined in section 3(f) of E.O. 12866) that would impose total costs greater than zero is considered an E.O. 14192 regulatory action. This final rule is considered an E.O. 14192 regulatory action. Details on the estimated costs of this final rule can be found in the rule's economic analysis.

**III. Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

The collections of information in these temporary regulations include reporting, third-party disclosure, and recordkeeping requirements for States and SGOs. Therefore, the likely respondents are State governments and tax-exempt organizations. The collection requirements are necessary to administer the section 25F credit for contributions to SGOs. The collections of information generally would be used by the States to be able to identify and certify SGOs in the State; by SGOs to provide information to donors on their qualified contributions to enable them to qualify for the credit; by SGOs to report information on those contributions to the IRS; and by the IRS to administer the credit to ensure that only qualified contributions give rise to the tax credit.

*A. Collection requirements applicable to States*

The collections of information applicable to States can be grouped into three categories: (1) registering through the IRS State section 25F portal; (2) electing to participate under section 25F, and (3) submitting the State SGO list, required certifications about the SGOs, and the State's policies for certifying SGOs.

*1. State registration*

Section 1.25F-5T provides rules under section 25F(g) for a State's election to participate under section 25F and the State's identification and certification of organizations located in the State that are SGOs. Section 1.25F-5T(b) describes the IRS State section 25F portal used for the submission of State elections and State SGO lists.

Section 1.25F-5T(b)(1) requires a State that chooses to make an election to participate under section 25F to obtain a special-purpose EIN under the procedures in § 1.25F-5T(b)(3) and complete a registration process under the procedures in § 1.25F-5T(b)(4) on *https://www.irs.gov* to electronically transmit information through the IRS State section 25F portal.

A State will use the IRS State section 25F portal to submit the State election and State SGO list and required certifications and information. To complete its registration, § 1.25F-5T(b)(4) requires a State to provide the special-purpose EIN, contact information for the State, and any other information the IRS deems necessary for purposes of administering the requirements of section 25F. The State registration and the requirement to obtain a special-purpose EIN will be approved by OMB under control number 1545-2335, pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

*2. State election to participate*

Section 1.25F-5T(c) provides rules for State elections. As part of providing an election and the State SGO list, the State must provide certain certifications and other required information as described in § 1.25F-5T(c)(5), which includes the information and certifications required by § 1.25F-5T(d)(2) through (5) for each organization on the State SGO list and a certification that the State SGO list includes every organization located in the State that is described in section 25F(c)(5)(A) and (B), is seeking inclusion on the State SGO list, and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements described in § 1.25F-5T(e)(1). The State election will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13 and its associated burden will be reflected in Tables 1 and 2 of this section.

*3. State submission of State SGO list and required certification*

The collection of information in § 1.25F-5T includes recordkeeping requirements related to the section 25F credit. A State will use these records to submit its State SGO list and the required certifications and other information. These

recordkeeping requirements are considered general tax records under § 1.6001-1(e). For PRA purposes, general tax records and their associated burdens are already approved by OMB under control number 1545–0047 for tax-exempt organizations and governmental entities.

Section 1.25F-5T(d)(1) requires a State to provide its State SGO list and include the information and certifications required under § 1.25F-5T(d)(2) and (3) as part of its State election. Section 1.25F-5T(d)(6) requires a State to provide a certification regarding its policies and procedures for determining whether an organization is an SGO. Section 1.25F-5T(d)(7)(iii)(B) provides rules for a State's removal of an SGO from the State SGO list. Section 1.25F-5T(e) provides general guidance regarding the policies and procedures States adopt for SGOs and Federal review of such policies and procedures. The submission of the State SGO list and required certification will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13 and its associated burden will be reflected in Tables 1 and 2 of this section.

*B. Collection requirements applicable to SGOs*

The collections of information in these temporary regulations applicable to SGOs can be grouped into two categories: (1) registering through the IRS SGO portal and (2) providing the donor with a written acknowledgement of the qualified contribution as well as reporting information related to those contributions to the IRS.

*1. SGO registration*

SGOs will need to report information related to qualified contributions made by the donor to the SGO during the calendar year through the IRS SGO portal, described in § 1.25F-1T(a)(8), in accordance with the instructions provided therein. As such, SGOs will need to register through the IRS SGO portal and provide the information required to complete the registration process.

Section 1.25F-4T(b) provides rules regarding the mandatory registration through the IRS SGO portal that an organization must complete. An organization needs to complete the registration process electronically through the IRS SGO portal and in accordance with the instructions provided therein, providing the information in § 1.25F-4T(b)(3). This includes the organization's general information, a point of contact, the organization's tax year, and any other information required in guidance. As part of the registration process, SGOs may authorize the IRS to disclose their information for inclusion on the IRS SGO list, as described in § 1.25F-4T(b)(1). The SGO registration will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

*2. Collections of information by SGOs related to contributions*

Section 1.25F-4T(c) provides rules on the reporting, recordkeeping, and third-party disclosure requirements of qualified contributions made by the donor to the SGO during the calendar year.

The collections of information in § 1.25F-4T(c) include recordkeeping requirements related to the section 25F credit. An SGO will use these records to enable it to provide the donor with a timely written acknowledgement of a contribution and to report to the IRS the necessary information about qualified contributions made by the donor to the SGO during the calendar year. These recordkeeping requirements are considered general tax records under § 1.6001-1(e). For PRA purposes, general tax records and their associated burdens are already approved by OMB under control number 1545-0047 for tax-exempt organizations.

Section 1.25F-4T(c)(1)(i) provides that an SGO must provide a timely written acknowledgement to each donor with respect to qualified contributions made by the donor to the SGO during the calendar year. The timely written acknowledgement must include the total amount of contributions made by the donor, the unique donor number the SGO created for the donor (pursuant to § 1.25F-4T(b)(4)), and a statement as to whether or not the SGO provided any goods or services in consideration, in whole or in part, for any qualified contributions made by the donor and if so, a description and good faith estimate of the value of any goods or services. The SGO can provide timely written acknowledgement in writing, or in any other form acceptable to the donor, including by electronic delivery. The timely written acknowledgement must be provided no later than January 31 of the calendar year following the calendar year in which a donor made a qualified contribution to the SGO. The timely written acknowledgement will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

Section 1.25F-4T(c)(2) requires an SGO to annually report to the IRS, no later than February 28 of the year following the year in which qualified contributions were made, information with respect to each unique donor number assigned by the SGO, including the donor's name and address, the aggregate amount of qualified contributions made by the donor to the SGO during the calendar year, and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance. The SGO will need to report the information to the IRS through the IRS SGO portal in accordance with the instructions provided therein. This information is necessary to allow the IRS to validate donor information collected by SGOs against filed tax returns claiming the section 25F credit. Availability of this information through the portal may facilitate earlier identification and resolution of discrepancies between filed returns and SGO data, allowing for timelier resolution of any disparities and limiting duplication, fraud, or abuse in the operation of the credit. This annual reporting will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

| Table 1: Affected Entities | |
|---|---|
| **ENTITY TYPE** | **NUMBER OF ENTITIES** |
| **States and District of Columbia** | **51** |
| **Scholarship Granting Organizations (SGOs)** | **600 to 700** |
| **Individual Contributors** | **11 million** |

**Table 2: Estimated Burden**

| STATE COLLECTIONS | | | | | |
|---|---|---|---|---|---|
| **Collection** | **Estimated Number of Respondents** | **Estimated frequency of responses** | **Estimated Total Responses** | **Estimated Burden Per Response** | **Estimated Total Annual Burden Hours** |
| **Registration** *§ 1.25F-5T(b)* | 51 | Once (1) | 51 | 1 hour 2 minutes (1.03 hours) | 53 hours |
| **Election** *§ 1.25F-5T(c)(1) - (4)* | 51 | Annually (1) | 51 | 17 minutes (0.29 hours) | 15 hours |
| **State compiling and submitting the SGO list** *§ 1.25F-5T(d) certifications and information regarding SGOs on State SGO list required by § 1.25F-5T(d)(2) and (3)* | 51 | Annually[3] (13) | 650 | 10 hours | 6,500 hours |
| **State certifications** – *certifications and information required by § 1.25F-5T(c)(5) & (d)(6) (policies and procedures)* | 51 | Annually (1) | 51 | 1 hour 43 minutes (1.71 hours) | 87 hours |
| **State removal of SGO** (reporting changes as needed or required) § 1.25F-5T(d)(7)(iii) | 8 | On Occasion[4] (7) | 56 | 30 minutes | 28 hours |
| **SGO COLLECTIONS** | | | | | |
| **Collection** | **Estimated Number of Respondents** | **Estimated frequency of responses** | **Estimated Total Responses** | **Estimated Burden Per Response** | **Estimated Total Annual Burden Hours** |
| **Registration** *§ 1.25F-4T(b)* | 650 | Once (1) | 650 | 1 hour 20 minutes (1.33 hours) | 865 hours |
| **Contribution Related Collection** - Drafting Template for Acknowledgement and unique ID generation process *§ 1.25F-4T(c)(1)* | 650 | Once (1) | 650 | 2 hours[5] | 1,300 hours |
| **Contribution Related Collection** - SGO giving contributors a written acknowledgement[6] *§ 1.25F-4T(c)(1)* | 650 | Annually[7] (16,923) | 11,000,000 | 15 minutes | 2,750,000 hours |
| **Contribution Related Collection** (Annual Report to IRS of Contributor Information) *§ 1.25F-4T(c)(2)* | 650 | Annually (16,923) | 11,000,000 | 30 minutes | 5,500,000 hours |

[3] States will consider, approve, submit and certify to multiple SGOs (650). (650 total SGOs divided by 51 States = approximately 13 SGOs per State).

[4] As States submit new SGO lists every year, the list for the next year can show changes from the prior year. If, however, an SGO needs to be removed from the State SGO list during the current year, the State must report that removal to the IRS. The IRS anticipates that few States will be required, or choose, to report changes throughout the year. Therefore, the IRS estimates only 15% of the States (8) will do this for approximately 1% of the total SGO population (7).

[5] The IRS anticipates that SGOs already have procedures in place to generate acknowledgements to donors for other purposes, but the IRS anticipates SGOs will need some time to create a process for generating and tracking the unique donor number and including that number in the acknowledgement. IRS anticipates this will be a one-time startup burden on SGOs.

[6] The IRS anticipates that most acknowledgements will be issued electronically to contributors and less than 1% may be issued as a paper version. The burden to issue the acknowledgement could take less than 1 minute to send electronically and up to 30 minutes to issue a paper version. Therefore, the IRS estimates it could take 15 minutes to issue an acknowledgement.

[7] SGOs will give information to multiple contributors each year (11 million total contributors divided by 650 SGOs = approximately 16,923 contributors per SGO per year).

**IV. Regulatory Flexibility Act**

For applicability of the Regulatory Flexibility Act, please refer to the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**.

**V. Section 7805(f)**

Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on their impact on small business.

**VI. Unfunded Mandates Reform Act**

Section 202 (2 U.S.C. 1532(a)) of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. The Treasury Department and the IRS have concluded that these temporary regulations, and the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**, do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

A "Federal intergovernmental mandate" is defined in 2 U.S.C. 658(5)(A), in part, as any provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, except for a duty arising from participation in a voluntary Federal program. Among other things, "federal tax policies that preempt specific state and local tax policies, and administrative rules issued by federal agencies cannot be avoided, [therefore] they are enforceable duties and are covered under UMRA." Adam G. Levin, *Unfunded Mandates Reform Act: History, Impact, and Issues* (CRS Report No: R40957) (2021) *https://www.congress.gov/crs-product/R40957*.

Section 1.25F-5T provides rules for the State's submission of its election to participate under section 25F and the State SGO list; rules regarding the information and certifications a State is required to provide for each organization included on the State SGO list; requirements that States must use in determining whether organizations meet the requirements of section 25F(c)(5); procedures for notifying the IRS of any determination by the State that an organization on the State SGO list is being removed from such list for not satisfying each of the requirements of section 25F(c)(5); and procedures regarding State requirements for SGOs.

These rules do not create a Federal intergovernmental mandate as defined in Title 2 of the United States Code. First, the rules do not impose an "enforceable duty" on the States. These rules do not preempt any State tax policies. Rather, for States that provide a State tax credit for donations to scholarship granting entities, these rules act in concert with State laws in this area and do not replace them. Second, even if these rules imposed an "enforceable duty," that duty arises from a State's voluntary participation in a Federal tax credit. Section 25F(g)(1)(A) provides that a State voluntarily elects to participate under section 25F. If a State does not want to participate, it is not required to do so.

A "Federal private sector mandate" is defined in 2 U.S.C. 658(7)(A), in part, as any provision in legislation, statute, or regulation that would impose an enforceable duty upon the private sector, except for a duty arising from participation in a voluntary Federal program. 2 U.S.C. 658(9) provides that the term "private sector" means "all persons or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include State, local, or tribal governments."

Section 1.25F-4T(b) provides rules for the mandatory registration process through the IRS SGO portal that each SGO must complete. Section 1.25F-4T(c) provides the requirements for acknowledgement, recordkeeping, and reporting of qualified contributions received by the SGO.

These rules do not create a Federal private sector mandate as defined in title 2, United States Code. First, the rules do not impose an "enforceable duty" on any member of the private sector. These rules do not include direct statutory orders, a total or partial preemption, or administrative rules issued by Federal agencies that cannot be avoided. Instead, they fall squarely in the exception for a duty arising from voluntary participation in a Federal tax credit. Tax-exempt organizations are not required to be SGOs, but to the extent that an organization wants to be an SGO, the organization would then be subject to the rules in these regulations. Likewise, an individual taxpayer is not required to claim a credit under section 25F, but to the extent that a taxpayer wants to claim a credit, the taxpayer would need to follow the rules provided in the proposed regulations.

If these rules were to create a Federal mandate, based on OIRA's determination that these temporary regulations and the corresponding proposed rulemaking are economically significant and subject to review under section 3(f) of Executive Order 12866, the UMRA would require the Treasury Department and the IRS to assess anticipated costs and benefits and take certain other actions before issuing a final rule. For a discussion of such an assessment and analysis, see the discussion of the Regulatory Flexibility Act and E.O. 12866 in the Special Analyses section of the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**.

**VII. Executive Order 13132: Federalism**

Executive order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The Treasury Department and the IRS conclude that these temporary regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law

within the meaning of the Executive order.

Section 1(a) of Executive Order 13132 provides that, for purposes of the order, "Policies that have federalism implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." As such, Executive Order 13132 prohibits an agency from publishing a rule if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The Tenth Amendment to the United States Constitution provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Section 1.25F-5T of these temporary regulations makes States responsible for ensuring SGOs on their SGO list have complied with the requirements of section 25F, but only if a State "voluntarily elects to participate under" section 25F. These temporary regulations do not violate the Executive Order or the Tenth Amendment because States will only need to comply with the guidance if they voluntarily elect to participate under section 25F.

The temporary regulations would not coerce State governments into administering Federal law in violation of the Executive Order or the Tenth Amendment because States do not lose any funding or face any other negative consequences if they decline to participate under section 25F. A State that does not want to ensure that organizations have complied with reporting requirements can decline to submit an annual list of SGOs under section 25F(g)(1)(A). If a State does not submit a list of SGOs, it does not need to comply with any guidance related to section 25F.

In addition, section 25F and these temporary regulations would not insulate the Federal or State governments from political accountability, which indicates that the section and guidance would be permissible under the Tenth Amendment. If residents want their State to submit a list of SGOs (and to take on the resulting administrative responsibilities), they can lobby their State government to do so. The same is true for residents who do not want their State to participate under the section. Thus, rather than invading the domain of State authority, section 25F enables States to determine whether to implement a Federal policy. Any State that does not want to participate in section 25F can decline to submit a list of SGOs, which would prevent taxpayers from claiming credits based on contributions to organizations within the State that would otherwise be SGOs.

Further, these temporary regulations do not impose substantial direct compliance costs on State and local governments. While States will incur some costs in complying with the requirements of these temporary regulations, those costs will not be substantial. See the discussion of the Regulatory Flexibility Act and Executive Order 12866 elsewhere in this Special Analyses section.

## VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as a major rule as defined by 5 U.S.C. 804(2).

## Drafting Information

The principal authors of these regulations are Nicole Cammarota of the Office of Division Counsel (Litigation & Advisory), Constance Chien of the Office of Associate Chief Counsel (Income Tax & Accounting), and Andrew Fahmy of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as follows:

## PART 1--INCOME TAXES

**Paragraph 1.** The authority citation for part 1 is amended by adding the following entries for §§ 1.25F-1T, 1.25F-4T, and 1.25F-5T in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 * * *

* * * * *

Section 1.25F-1T also issued under 26 U.S.C. 25F(h).

Section 1.25F-4T also issued under 26 U.S.C. 25F(h).

Section 1.25F-5T also issued under 26 U.S.C. 25F(h).

* * * * *

**Par. 2.** Section 1.25F-1T is added to read as follows:

### § 1.25F-1T Definitions (temporary).

(a) *In general.* The definitions of terms in this paragraph (a) apply for purposes of section 25F and the section 25F regulations (that is, this section and §§ 1.25F-4T and 1.25F-5T).

(1) *Advance election.* The term *advance election* means a State's submission described in § 1.25F-5T(c)(3).

(2) *Covered State*. The term *covered State* means a State that makes a State election, in accordance with § 1.25F-5T(c), to participate under section 25F for a particular calendar year.

(3) – (5) [Reserved]

(6) *Guidance*. The term *guidance* means guidance published in the **Federal Register** or Internal Revenue Bulletin (*see* §§ 601.601(d)(2) and 601.602 of this chapter) or, as appropriate, in forms, instructions, and publications available on *https://www.irs.gov* and through the IRS SGO portal or IRS State section 25F portal, as applicable.

(7) *IRS SGO list.* The term *IRS SGO list* means the aggregated list of SGOs included on one or more State SGO lists that the IRS maintains and publishes on *https://www.irs.gov* in accordance with § 1.25F-5T(d)(9).

(8) *IRS SGO portal.* The term *IRS SGO portal* consists of the module(s) on *https://www.irs.gov* that an SGO is required by § 1.25F-4T(b) to use, in accordance with the instructions provided therein, to electronically obtain instructions for creating a unique donor number in a uniform format to be used by all SGOs, authorize disclosure of its name and identifying information on the IRS SGO list, and report specified information.

(9) *IRS State section 25F portal.* The term *IRS State section 25F portal* consists of the module(s) on *https://www.irs.gov* that a State is required by § 1.25F-5T(b) to use, in accordance with guidance, to electronically transmit its State election (or advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in guidance.

(10) *Located in a State*. An organization is *located in a State* if the organization 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. *But see* § 1.25F-5T(e)(2) (prohibiting covered States from imposing requirements on SGOs that are more restrictive than the requirements in section 25F(c)(5)).

(11) *Multistate SGO.* The term *multistate SGO* means an SGO that is included on the State SGO list of more than one covered State.

(12) *Qualified contribution*—(i) *In general.* The term *qualified contribution* means a charitable contribution of cash made by an individual to an SGO to the extent that the donor designates to the recipient SGO, at the time of making the contribution, that the contribution is intended to be a qualified contribution for purposes of section 25F. Such designation, once made, is irrevocable.

(ii) *Goods or services received as consideration for the contribution*. If the SGO provides any goods or services as consideration for any part of the contribution, then the value of those goods and services must be subtracted from the amount of the charitable contribution to arrive at the amount of the qualified contribution.

(iii) *Cash*. For purposes of paragraph (a)(12)(i) of this section, the term *cash*—

(A) Means physical currency, check, money order, electronic transfer, after-tax payroll deduction, or other similar method, in each case all in U.S. dollars, and

(B) Does not mean any digital asset.

(13) – (15) [Reserved]

(16) *Scholarship granting organization (SGO).* The term *SGO* is defined in section 25F(c)(5).

(17) [Reserved]

(18) *Section 25F segregated account*. The term *section 25F segregated account* means the separate account exclusively for qualified contributions and the earnings therefrom that the SGO must maintain pursuant to section 25F(c)(5)(B).

(19) [Reserved]

(20) *Single-State SGO*. The term *single-State SGO* means an organization included on the State SGO list of only one covered State.

(21) *State*. References to *State* include each of the 50 States and the District of Columbia.

(22) [Reserved]

(23) *State election*. The term *State election* means a State election to participate under section 25F for a particular calendar year that is made in accordance with the procedures set forth in § 1.25F-5T(b) and (c).

(24) *State SGO list*. The term *State SGO list* means the list of all SGOs located in the State that the covered State submits to the IRS for a particular calendar year in accordance with § 1.25F-5T(d) (and that may be changed during such calendar year in accordance with § 1.25F-5T(d)(7)).

(25) *Timely written acknowledgement*. The term *timely written acknowledgement* means the written acknowledgement an SGO must provide to donors with respect to qualified contributions made during the calendar year in accordance with § 1.25F-4T(c)(1).

(26) [Reserved]

(b) *Applicability date*—(1) *In general*. This section applies on or after September 1, 2026. The applicability of this section expires on or before October 1, 2029.

(2) [Reserved]

**Par. 3.** Sections 1.25F-4T and 1.25F-5T are added to read as follows:

**§1.25F-4T Reporting and recordkeeping requirements for SGOs (temporary).**

(a) [Reserved]

(b) Mandatory registration through IRS SGO portal—(1) In general. Except to the extent otherwise provided in guidance, an organization that plans to solicit qualified contributions must electronically register through the IRS SGO portal in accordance with the instructions provided therein. Registration through the IRS SGO portal will allow the organization to obtain instructions for creating a unique donor number in a uniform format to be used by all SGOs, authorize disclosure of its name and identifying information on the IRS SGO list, and report qualified contribution information. An organization must authorize disclosure in accordance with section 6103(c) of its name and identifying information on the IRS SGO list for a calendar year if the organization wants the IRS to publish such information on the IRS SGO list for that year.

(2) Time for registration through IRS SGO portal. An organization must register with the IRS as soon as possible and preferably before the organization appears on any State SGO list. Until the organization has registered in the IRS SGO portal, the organization will not be able to comply with the acknowledgement and reporting requirements in paragraph (c) of this section, and that compliance is a necessary part of substantiating that a donor's qualified contribution is eligible for the credit allowed under section 25F.

(3) Information required to complete registration. An organization must provide the following information to the IRS to register in the IRS SGO portal:

(i) The organization's name, IRS employer identification number (EIN), address, telephone number, and year of formation;

(ii) The name of a person whom the IRS may contact if there is an issue with the registration, and who either possesses legal authority to bind the organization or provides a properly executed power of attorney on Form 2848, *Power of Attorney and Declaration of Representative*;

(iii) The organization's taxable year; and

(iv) Any other information the IRS deems necessary for purposes of adminis-

tering the requirements of section 25F as provided in guidance.

(4) *Donor number.* The IRS will review the registration submission to verify that all the required information has been submitted and will provide the organization with instructions for creating a unique donor number for each donor who has designated at least one payment to the organization as a qualified contribution to the SGO during the calendar year.

(c) *Acknowledgement and reporting of qualified contributions received by SGOs*—(1) *Reporting to donor*—(i) *In general.* An organization must provide a timely written acknowledgement to each donor that includes the following information:

(A) The organization's EIN;

(B) The total amount of contributions made by the donor to the organization during the calendar year that the donor designated as qualified contributions;

(C) The unique donor number the organization created for the donor in accordance with paragraph (b)(4) of this section;

(D) A statement as to whether or not the organization provided any goods or services in consideration, in whole or in part, for any qualified contributions made by the donor to the SGO during the calendar year; and

(E) A description and good faith estimate of the value of any goods or services described in paragraph (c)(1)(i)(D) of this section, if any.

(ii) *Time and manner of providing timely written acknowledgement.* An organization must provide the timely written acknowledgement no later than January 31 of the calendar year following the calendar year in which a donor made a qualified contribution to the organization. The timely written acknowledgement can be provided in writing or in any other form acceptable to the donor, including by electronic delivery if the donor consents to receive the statement electronically and does not withdraw the consent before the statement is furnished.

(2) Reporting qualified contributions to the IRS—(i) In general. An organization must annually report to the IRS the following information with respect to each unique donor number assigned by the organization as set forth in paragraph (b)(4) of this section:

(A) The donor's name;

(B) The donor's address;

(C) The aggregate amount of qualified contributions made by the donor to the organization during the calendar year; and

(D) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(ii) *Time and manner of reporting.* An organization must report the information described in paragraph (c)(2)(i) of this section no later than February 28 of the year following the year in which such qualified contributions were made. Unless otherwise provided in guidance, the reporting must be done through the IRS SGO portal in accordance with the instructions provided therein.

(d) and (e) [Reserved]

(f) *Applicability date*—(1) *In general*. This section applies on or after September 1, 2026. The applicability of this section expires on or before October 1, 2029.

(2) [Reserved]

**§1.25F-5T State election, State SGO list, and certification of SGOs (temporary).**

(a) *Overview.* This section provides rules under section 25F(g) for a State election and participation under section 25F. Paragraph (b) of this section describes the IRS State section 25F portal used for the submission of State elections and State SGO lists and the reporting of any changes to State SGO lists and other required information. Paragraph (c) of this section provides rules for the State election, including an advance election, and the provision of the State SGO list. Paragraph (d) of this section provides rules regarding State SGO lists. Paragraph (e) of this section provides general guidance regarding Federal review of the policies and procedures States adopt for SGOs.

(b) *IRS State section 25F portal*—(1) *In general.* A State that chooses to participate under section 25F must register in the IRS State section 25F portal in accordance with the instructions therein. Registration requires obtaining or being assigned a special-purpose employer identification number (EIN) in accordance with paragraph (b)(3) of this section and then providing the information required by paragraph (b)(4) of this section. At the conclusion of the registration process, a State will be able to electronically transmit through the IRS State section 25F portal its State election (including an advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required by future guidance.

(2) *Delegation*—(i) *In general*. The Governor of the State or such other individual, agency, or entity as is designated under State law to make elections with respect to Federal tax benefits on behalf of the State may authorize up to two designated officials, as described in paragraph (b)(2)(ii) of this section, to register for and use the IRS State section 25F portal. The State must provide any information and documentation necessary, in accordance with future guidance, to establish an individual's authority to use the IRS State section 25F portal on behalf of the State.

(ii) *Designated officials*. A designated official for purposes of the delegation described in paragraph (b)(2)(i) of this section must be one of the following individuals:

(A) An elected official;

(B) The Director of Taxation; or

(C) An appointed official.

(3) *Special purpose EIN.* Before a State may begin the registration process for the IRS State section 25F portal, the State must obtain or be assigned a special-purpose EIN, to be used only for purposes of section 25F, in accordance with applicable IRS guidance. The State may not obtain its own special-purpose EIN using the general guidance for obtaining an EIN set forth in § 301.6109-1(d)(2)(i) of this chapter. The special-purpose EIN cannot be used for any other purpose under the Code.

(4) *Information required to complete registration.* A State must provide the following information to complete the registration process for the IRS State section 25F portal:

(i) The State's special-purpose EIN obtained or assigned in accordance with paragraph (b)(3) of this section;

(ii) Contact information, including the name, official title, telephone number, and email address of each of the State's designated officials (if any) authorized as pro-

vided in paragraph (b)(2) of this section; and

(iii) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(c) *State election*—(1) *In general.* Except as provided in paragraph (c)(3)(i)(B) of this section (providing a special rule for the first year a State makes an election), a State election may be made either as an advance election that is perfected, as described in paragraph (c)(3) of this section, or as an election made as part of the submission of the State SGO list, as described in paragraph (c)(4) of this section. The State election is made only for a single calendar year, and all the requirements in this paragraph (c) must be satisfied for each year for which an election is made.

(2) *Authority to make a State's election.* A State election, including an advance election, must be made either by the Governor of the State (or the Mayor of the District of Columbia) or by such other individual, agency, or entity as is designated under State law to make such elections with respect to Federal tax benefits on behalf of the State.

(3) *Advance election*——(i) *Submission of advance election*—(A) *In general*. Except as provided in the transition rule in paragraph (c)(3)(i)(B) of this section (or as otherwise provided in guidance), a State may submit an advance election through the IRS State section 25F portal on or after January 2 and on or before September 30 of the calendar year immediately preceding the calendar year for which the election is being made. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

(B) Transition rule for the first calendar year for which the State makes an election—(1) Calendar year 2027. For calendar year 2027 only, a State must submit an advance election on Form 15714, Advance Election to Participate Under Section 25F for 2027, on or before January 1, 2027. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

(2) *Future years*. For calendar years after 2027, a State making its first election to participate under section 25F must submit an advance election as provided in future guidance.

(ii) *Perfection of advance election*—(A) *In general*. If a State has submitted an advance election in accordance with paragraph (c)(3)(i) of this section, the State must perfect its election by providing its State SGO list for a calendar year, with the information and certifications required in paragraph (c)(5) of this section, on or before January 1 of that year, but not earlier than October 1 of the immediately preceding calendar year.

(B) *Transition rule for the first calendar year for which section 25F applies*. For calendar year 2027 only, a State may provide its State SGO list on or before February 15, 2027.

(C) *Failure to perfect*. Because a State that makes an advance election is required by section 25F(g) to provide its State SGO list as part of its State election, a failure to perfect its advance election within the time period set forth in this paragraph (c)(3)(ii) would result in a failure to meet the requirements of section 25F(g). Accordingly, no organization in that State would qualify as an SGO for the calendar year for which the advance election was not perfected.

(iii) *IRS advance election list*. The IRS will maintain and publish on *https://www.irs.gov* a list of States that have made an advance election.

(4) *Election with submission of the State SGO list*. Except for the first year for which the State makes its election (see paragraph (c)(3)(i)(B) of this section), a State may make its State election for a calendar year when the State submits its State SGO list for that year by providing its State election and State SGO list for that calendar year, with the information and certifications required in paragraph (c)(5) of this section, on or before January 1 of that year, but not earlier than October 1 of the immediately preceding calendar year.

(5) *Certifications and other required information.* As part of providing a State election and the State SGO list under this paragraph (c), the person with authority to make the State election, as described in paragraph (c)(2) of this section, or a designated official, as described in paragraph (b)(2) of this section, must, in accordance with future guidance:

(i) Certify that the individual, agency, or entity making the State election has the authority to make the State election on behalf of the State;

(ii) Certify that the person authorizing any individuals as designated officials under paragraph (b)(2) of this section has the authority to do so;

(iii) Provide the enacted statutory or regulatory provisions that are binding on the State and establish the authority of an individual to make the election on behalf of the State, if the individual making the election is not the Governor of the State (or the Mayor of the District of Columbia);

(iv*)* Provide the information and certifications required by paragraphs (d)(2) and (3) of this section for each SGO on the State SGO list;

(v) Certify that the State SGO list includes every organization located in the State that is described in section 25F(c)(5)(A) and (B), is seeking inclusion on the State SGO list, and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements described in paragraph (e)(1) of this section;

(vi) Provide the certification of State procedures as required by paragraph (d)(6) of this section;

(vii*)* Describe any tax credit (including relevant State statutes, regulations, and other authoritative guidance) available under State law for contributions made to SGOs during the calendar year for which the State is electing to participate under section 25F; and

(viii*)* Provide any other information and certifications described in future guidance.

(d) *State SGO lists*—(1) *In general.* Except to the extent otherwise provided in future guidance, a State must provide its State SGO list and include the information and certifications required under paragraphs (d)(2) and (3) of this section as part of its State election. Paragraph (d)(4) of this section provides a transition rule for an organization that has not yet been required to provide information and certifications to the IRS. Paragraph (d)(5) of this section provides a procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS. Paragraph (d)(6) of this section requires a State to provide a certification regarding its policies and pro-

cedures for determining whether an organization is included on the State SGO list. Paragraph (d)(7) of this section provides rules for changes to a State SGO list, and paragraph (d)(8) of this section provides rules for the removal of an SGO from the IRS SGO list. Paragraph (d)(9) of this section provides for the publication of the names of covered States and their State SGO lists on *https://www.irs.gov*.

(2) *Required SGO information.* For each organization named on the State SGO list, a State must provide:

(i) The name, EIN, address, and telephone number of the organization;

(ii) The Federal tax-exempt status of the organization, meaning that the organization either is currently described in section 501(c)(3), exempt from tax under section 501(a), and not a private foundation as defined in section 509(a), or, if paragraph (d)(5) of this section applies, that the organization's application for recognition of tax-exempt status is pending with the IRS; and

(iii) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(3) *Required SGO certifications*. Except as provided for the transition rule in paragraph (d)(4) of this section, for each organization named on the State SGO list, the State must certify that:

(i) The organization is located in the State;

(ii) The organization prevents the co-mingling of qualified contributions with other amounts by maintaining a section 25F segregated account, which must contain only qualified contributions and the earnings therefrom, depositing all qualified contributions into its section 25F segregated account and maintaining a complete set of books and records for its section 25F segregated account;

(iii) The organization meets all the operational requirements described in section 25F(d);

(iv) As part of the State's determination that an organization is or will be an SGO, the State has:

(A) Determined whether the organization is or will be a single-State SGO or a multistate SGO;

(B) Reviewed the annual financial and programmatic audit report the organization is required to provide to the State in accordance with guidance;

(C) Reviewed the annual certifications and other information the organization is required to provide to the IRS; and

(D) Investigated any failure by the SGO to provide the required certifications and other information, and, with respect to any such failure, has become reasonably satisfied that the SGO has corrected the failure, if possible, or has put in place procedures to prevent future failures in a manner that satisfies the State that the SGO will satisfy the requirements to be an SGO located in the State; and

(v) The organization satisfies any other requirements the IRS deems necessary for purposes of administering section 25F as may be described in future guidance.

(4) *Transition rule for an organization that has not yet been required to provide information and certifications to the IRS.* Until an organization first provides information establishing its satisfaction of the operational requirements of section 25F(d) in accordance with guidance, a State may rely, in determining whether the organization may be treated as an SGO, on the organization's governing documents or bylaws, written policies and procedures, and other documentation the organization provides to the State as part of its submission requesting inclusion on the State SGO list. However, for each year during this transition period for which the organization is listed as an SGO on the State SGO list, the State must:

(i) Determine that the SGO satisfies all requirements of section 25F(c)(5)(A) and (B);

(ii) Determine that the SGO's provisions, policies, and procedures expressly require (beyond a general requirement to comply with applicable law) the SGO to satisfy the operational requirements for an SGO in section 25F(d);

(iii) Determine that the documentation and information available to the State evidences the SGO's ability and intent to satisfy the operational requirements in section 25F(d); and

(iv) Require the SGO to concurrently provide the State with a copy of any information and certifications required to be provided to the IRS before the end of the transition period in accordance with guidance.

(5) *Procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS.* A State SGO list may include organizations whose applications for recognition of tax-exempt status are pending with the IRS as of the date of submission of the State SGO list if the State includes on its State SGO list all organizations seeking inclusion on the State SGO list whose application for recognition of tax-exempt status is then pending with the IRS, provides the information and certifications required under paragraphs (d)(2) and (3) of this section for each such organization, and certifies, for each such organization, that:

(i) The organization has applied for, but has not yet received, IRS recognition of its status as an organization described in section 501(c)(3);

(ii) The organization's tax-exempt status, if granted, will be effective retroactively to a date that is on or before January 1 of the year for which the State SGO list applies;

(iii) The State SGO list indicates that such organization's tax-exempt status is pending IRS recognition; and

(iv) The State has complied with the requirements of paragraph (d)(4) of this section for each such organization.

(6) *Certification of State policies and procedures.* A State must certify that its policies and procedures, including its procedures for assessing and responding to audit results:

(i) Enable the State to make its own determination that each organization on the State SGO list is located in the State, is in compliance with the requirements of section 25F(c)(5)(A) and (B), and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements described in paragraph (e)(1) of this section;

(ii) Provide for the prompt removal of an organization from the State SGO list, and notification to the IRS through the IRS State section 25F portal, upon a determination that the organization does not satisfy each of the required criteria referenced in paragraph (d)(6)(i) of this section;

(iii) Require that any publicly available list of SGOs maintained by the State is

identical to the most recently submitted State SGO list and includes the IRS SGO list's URL (Uniform Resource Locator); and

(iv) Ensure that the State's procedures before and after the removal of an organization from the State SGO list are fairly administered and afford due process in accordance with applicable Federal and State laws.

(7) *Changes to State SGO list*—(i) *Changes before the deadline for the elected calendar year*. A State may replace or supplement its State SGO list for a calendar year at any time before the deadline for perfecting or completing an election for that year by submitting the change in the IRS State section 25F portal in accordance with future guidance.

(ii) *Additions to State SGO list after the deadline for the elected calendar year*. Except to the extent provided otherwise in guidance, a State may not make any additions to the State SGO list for a calendar year after the deadline provided in paragraph (c)(3)(ii) or (c)(4) of this section, as applicable. Any additions a State seeks to make after that deadline may be included as part of the State's submission of its State SGO list for the following calendar year.

(iii) *Removal from State SGO list*—(A) *Removal request from SGO*. If an SGO requests to be removed from a State SGO list, a State must comply, indicate the removal and its effective date on that list, and promptly notify the IRS of that removal through the IRS State section 25F portal so the IRS can remove the SGO from the IRS SGO list for the current year.

(B) *State removal procedures*. A State may remove an SGO from its State SGO list if the State determines, through a procedure providing due process to the organization, that the SGO is not located in the State, or that the SGO does not satisfy the requirements for an SGO in section 25F(c)(5) or (d) or the applicable State requirements described in paragraph (e)(1) of this section. The State must promptly notify the IRS of the removal and its effective date through the IRS State section 25F portal.

(8) *Removal of a non-compliant organization from the IRS SGO list.* An organization may be removed from the IRS SGO list, and will be shown on that list as having been removed as of the date the IRS removes the organization from that list, in the following circumstances:

(i) *Removal following change in tax-exempt status*. The IRS will remove an organization from the IRS SGO list if:

(A) The organization is not described in section 501(c)(3) and exempt from tax under section 501(a); or

(B) The organization is a private foundation.

(ii) *IRS determination of non-compliance with applicable requirements*. The IRS may remove an organization from the IRS SGO list following a determination that the organization has failed to comply with a requirement of section 25F (other than the tax-exempt status requirement in section 25F(c)(5)(A)) or has failed to comply with the applicable reporting, recordkeeping, or audit requirements, including a failure to report qualified contributions in accordance with § 1.25F-4T(c). Such an IRS determination is a Federal tax controversy under section 7803(e)(3), which gives the SGO an opportunity to seek review of the determination by the IRS Independent Office of Appeals in the time and manner prescribed in applicable forms, instructions, or other administrative guidance.

(iii) *Removal following State SGO status determination*—(A) *In general*. If a State removes an SGO from its State SGO list in accordance with paragraph (d)(7)(iii) of this section, the IRS will remove an SGO from the relevant part of the IRS SGO list.

(B) *Multistate SGO*. If a State removes a multistate SGO from its State SGO list under paragraph (d)(7)(iii) of this section, but the SGO continues to satisfy all applicable requirements for an SGO in a different covered State on whose State SGO list it appears, as well as the applicable requirements as described in paragraph (e)(1) of this section in such other State(s), the SGO will remain on the IRS SGO list with respect to such other covered State(s), subject to any further discretionary examination of the SGO by such other covered States or the IRS.

(9) *Publication of covered States and State SGO lists*—(i) *In general*. The IRS will maintain and publish the IRS SGO list on *https://www.irs.gov*. For those SGOs that have authorized the disclosure of their information on the IRS SGO list, the IRS SGO list will contain each SGO included on a State SGO list for each of the covered States for the calendar year and reflect each removal from a State SGO list and the date of the removal.

(ii) *Addition of organizations with pending tax-exempt status to IRS SGO list*. Upon determining that an organization described in paragraph (d)(5) of this section qualifies for tax-exempt status and that the effective date of such tax-exempt status is on or before January 1 of the calendar year for which the State SGO list applies, the IRS will add the organization to the IRS SGO list for that year if, and as soon as, the organization authorizes publication of its information to be included on that list.

(e) *State administrative requirements*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, a State must:

(i) Require that organizations meet all generally applicable State requirements for charitable organizations, including any State requirements that any organization must satisfy to be authorized to do business in the State and to solicit charitable contributions in the State; and

(ii) Require SGOs to comply with application, documentation, and financial reporting requirements that are reasonably tailored to:

(A) Support the State's certifications under paragraph (d)(3) of this section; and

(B) Facilitate the prevention and detection of fraud or abuse, including the misuse of scholarship funds, such as through the duplication of scholarship awards to the same student for the same qualified elementary or secondary education expense.

(2) Prohibition on additional State requirements or discretionary exclusions. A State may not require SGOs to operate in a manner that is more restrictive than the requirements set forth in section 25F(c)(5), such as by limiting the type of school that scholarship recipients may attend or the types of qualified elementary or secondary education expenses for which scholarship funds may be used. Accordingly, the State requirements provided in paragraph (e)(1)(ii) of this section must be reasonably related to determining whether an organization is located in the State, meets the requirements of section 25F(c)

(5) and the operational requirements in section 25F(d), and satisfies the generally applicable State requirements for charitable organizations in the State for accountability and fraud prevention.

(3) *Federal review.* The procedures a State implements in accordance with this paragraph (e) are subject to Federal review. Upon discovering a pattern of irregularities or noncompliance, the IRS, in its discretion, may require a State to modify its procedures to ensure that its determinations regarding an organization's satisfaction of the requirements in section 25F(c)(5) and (d) are being administered in accordance with the applicable statutory, regulatory, and appropriate State requirements.

(f) *Applicability date*. This section applies on or after September 1, 2026. The applicability of this section expires on or before October 1, 2029.

**Frank J. Bisignano**,
*Chief Executive Officer.*

Approved: September 10, 2026

**Kevin Salinger,**
*Acting Assistant Secretary of the Treasury (Tax Policy).*

(Filed by the Office of the Federal Register October 1, 2026, 8:45 a.m., and published in the issue of the Federal Register for October 2, 2026, 91 FR 62655)

# Part III

## 2027 Amounts Relating to Retirement Plans and IRAs, as Adjusted for Changes in Cost-of-Living

## Notice 2026-66

Section 415 of the Internal Revenue Code ("Code") provides for limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limitations for cost-of-living increases. Under section 415(d), the adjustments are to be made under adjustment procedures similar to those used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act. Other amounts applicable to deferred compensation plans are also adjusted for cost-of-living increases using a variation of the methodology used for the adjustments under section 415(d).

**Cost-of-Living Adjusted Limitations for 2027**

Effective January 1, 2027, the limitation on the annual benefit under a defined benefit plan under section 415(b)(1)(A) of the Code is increased from $290,000 to $300,000.

For a participant who separated from service before January 1, 2027, the participant's limitation under a defined benefit plan under section 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2026, by 1.0350.

The limitation for defined contribution plans under section 415(c)(1)(A) is increased in 2027 from $72,000 to $75,000.

The Code provides that various other amounts are to be adjusted at the same time and in the same manner as the limitation of section 415(b)(1)(A). After taking into account the applicable rounding rules, the amounts for 2027 are as follows:

The limitation under section 402(g)(1) on the exclusion for elective deferrals described in section 402(g)(3), which includes elective deferrals made to the Thrift Savings Plan, is increased from $24,500 to $25,500.

The limitation on deferrals under section 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations is increased from $24,500 to $25,500.

The limitation under section 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in section 401(k)(11) or section 408(p) that generally applies for individuals aged 50 or over is increased from $8,000 to $8,500. The limitation under section 414(v)(2)(E)(i) for catch-up contributions to an applicable employer plan other than a plan described in section 401(k)(11) or section 408(p) that applies for individuals who attain age 60, 61, 62, or 63 in 2027 increases from $11,250 to $11,750. The Roth catch-up wage threshold for 2026, which under section 414(v)(7)(A) is used to determine whether an individual's catch-up contributions to an applicable employer plan (other than a plan described in section 408(k) or (p)) for 2027 must be designated as Roth contributions, is increased from $150,000 to $155,000.

The limitation under section 408(p)(2)(E)(i)(III) that generally applies to salary reduction contributions under a SIMPLE retirement account or elective contributions under a SIMPLE 401(k) plan is increased from $17,000 to $17,500. The limitation under section 408(p)(2)(E)(i)(I) or (II) for employee elective deferrals for SIMPLE retirement accounts maintained by certain eligible employers is increased from $18,100 to $19,100.

The limitation under section 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in section 401(k)(11) or section 408(p) that generally applies for individuals aged 50 or over remains $4,000. The limitation under section 414(v)(2)(E)(ii) for catch-up contributions to an applicable employer plan described in section 401(k)(11) or section 408(p) that applies for individuals who attain age 60, 61, 62, or 63 in 2027 remains $5,250. The limitation under section 414(v)(2)(B)(iii) for catch-up contributions to certain accounts or plans described in section 401(k)(11) or section 408(p) that generally applies for individuals aged 50 or over remains $3,850.

The limitation under section 401(k)(16)(D)(i)(II) and 403(b)(16)(D)(i)(II) that generally applies for elective contributions made to a starter 401(k) deferral-only arrangement described in section 401(k)(16)(B) or a safe harbor deferral-only plan described in section 403(b)(16)(B), respectively, is increased from $6,000 to $6,500. This limitation is increased for individuals who attain age 50 before the end of the taxable year by $1,100.

The threshold used in the definition of "highly compensated employee" under section 414(q)(1)(B) is increased from $160,000 to $170,000.

The threshold under section 416(i)(1)(A)(i) concerning the definition of "key employee" for top-heavy plan purposes is increased from $235,000 to $245,000.

The annual compensation limitation under sections 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from $360,000 to $375,000. The annual compensation limitation under section 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under section 401(a)(17) to be taken into account, is increased from $535,000 to $555,000.

The limitation under section 402A(e)(3)(A)(i) concerning pension-linked emergency savings accounts that may be included in certain types of defined contribution plans is increased from $2,600 to $2,700.

The compensation threshold under section 408(k)(2)(C) regarding sim-

plified employee pensions remains $800.

The amount under section 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from $1,455,000 to $1,505,000, while the dollar amount used to determine the lengthening of the 5-year distribution period is increased from $290,000 to $300,000.

The limitation on the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer under section 457(e)(11)(B)(ii) concerning deferred compensation plans of state and local governments and tax-exempt organizations remains $8,000.

The limitation under section 664(g)(7) concerning the qualified gratuitous transfer of qualified employer securities to an employee stock ownership plan remains $65,000.

The compensation amount under § 1.61-21(f)(5)(i) of the Treasury Regulations concerning the definition of "control employee" for fringe benefit valuation purposes is increased from $145,000 to $150,000. The compensation amount under § 1.61-21(f)(5)(iii) is increased from $290,000 to $300,000.

The limitation on premiums paid for a qualifying longevity annuity contract under § 1.401(a)(9)-6(q)(2)(ii) is increased from $210,000 to $220,000.

Section 432(e)(9)(H)(v)(III)(bb) of the Code provides that the $1,000,000,000 threshold used to determine whether a multiemployer plan is a systemically important plan under section 432(e)(9)(H)(v)(III)(aa) is adjusted using the cost-of-living adjustment based on changes in the contribution and benefit base determined under section 230 of the Social Security Act. After taking the applicable rounding rule into account, this threshold for 2027 is increased from $1,505,000,000 to $1,576,000,000.

The Code also provides that several retirement-related amounts are to be adjusted using a variation of the methodology used for the cost-of-living adjustments under section 1(f)(3). After taking the applicable rounding rules into account, the amounts for 2027 are as follows:

The deductible amount under section 219(b)(5)(A), which limits the amount of an individual's deductible qualified retirement contributions for a taxable year remains $7,500. The deductible amount pursuant to section 219(b)(5)(B)(ii) for individuals who have attained age 50 before the close of the taxable year remains $1,100.

The applicable amount under section 219(g)(3)(B)(i) for determining the deductible amount of an IRA contribution for taxpayers who are active participants filing a joint return or as a qualifying widow(er) is increased from $129,000 to $133,000. The applicable amount under section 219(g)(3)(B)(ii) for all other taxpayers who are active participants (other than married taxpayers filing separate returns) is increased from $81,000 to $83,000. If an individual or the individual's spouse is an active participant, the applicable amount under section 219(g)(3)(B)(iii) for a married individual filing a separate return is not subject to an annual cost-of-living adjustment and remains $0. The applicable amount under section 219(g)(7)(A) for a taxpayer who is not an active participant but whose spouse is an active participant is increased from $242,000 to $250,000.

In light of the changes to the applicable amounts, under section 219(g)(2)(A), the deduction for taxpayers making contributions to a traditional IRA is phased out for single individuals and heads of household who are active participants in a qualified plan (or another retirement plan specified in section 219(g)(5)) and have adjusted gross incomes (as defined in section 219(g)(3)(A)) between $83,000 and $93,000, increased from between $81,000 and $91,000. For married couples filing jointly, if the spouse who makes the IRA contribution is an active participant, the income phase-out range is between $133,000 and $153,000, increased from between $129,000 and $149,000. For an IRA contributor who is not an active participant and is married to someone who is an active participant, the deduction is phased out if the couple's income is between $250,000 and $260,000, increased from between $242,000 and $252,000. For a married individual filing a separate return who is an active participant, the phase-out range is not subject to an annual cost-of-living adjustment and remains $0 to $10,000.

The adjusted gross income limitation under section 408A(c)(3)(B)(ii)(I) for determining the maximum Roth IRA contribution for married taxpayers filing a joint return or for taxpayers filing as a qualifying widow(er) is increased from $242,000 to $250,000. The adjusted gross income limitation under section 408A(c)(3)(B)(ii)(II) for all other taxpayers (other than married taxpayers filing separate returns) is increased from $153,000 to $158,000. The applicable amount under section 408A(c)(3)(B)(ii)(III) for a married individual filing a separate return is not subject to an annual cost-of-living adjustment and remains $0.

In light of the changes to the adjusted gross income limitations, under section 408A(c)(3)(A), the adjusted gross income phase-out range for taxpayers making contributions to a Roth IRA is between $250,000 and $260,000 for married couples filing jointly, increased from between $242,000 and $252,000. For singles and heads of household, the income phase-out range is between $158,000 and $173,000, increased from between $153,000 and $168,000. For a married individual filing a separate return, the phase-out range is not subject to an annual cost-of-living adjustment and remains between $0 and $10,000.

The aggregate amount of qualified charitable distributions that are not includible in gross income under section 408(d)(8)(A) is increased from $111,000 to $114,000. The amount of qualified charitable distributions made directly to a split-interest entity that are not includible in gross income

under section 408(d)(8)(F)(i)(II) pursuant to a one-time election is increased from $55,000 to $57,000.

The annual compensation limitation under section 45E(f)(2)(C) for employees excluded from the calculation of the additional small employer pension plan startup cost credit for certain employer contributions remains $110,000.[1]

The limitation under section 72(t)(2)(K)(ii)(I) for eligible distributions to victims of domestic abuse from applicable eligible retirement plans is increased from $10,500 to $10,900.

The limitation under section 401(a)(39)(B)(i)(III) on a qualified long-term care distribution from a qualified defined contribution plan with respect to certified long-term care insurance is increased from $2,600 to $2,700.

The limitation under section 408(p)(2)(A)(iv) for additional nonelective contributions for an employee to a SIMPLE retirement account or a SIMPLE 401(k) plan is increased from $5,300 to $5,400.

The Code also provides that several amounts with respect to the Saver's Credit are to be adjusted using a variation of the methodology used for the cost-of-living adjustments under section 1(f)(3). After taking the applicable rounding rules into account, the amounts for 2027[2] are as follows:

The adjusted gross income limitation under section 25B(b)(1)(A) for determining the Saver's Credit for married taxpayers filing a joint return is increased from $48,500 to $50,000; the limitation under section 25B(b)(1)(B) is increased from $52,500 to $54,000; and the limitation under sections 25B(b)(1)(C) and 25B(b)(1)(D) is increased from $80,500 to $83,000.

The adjusted gross income limitation under section 25B(b)(1)(A) for determining the Saver's Credit for taxpayers filing as head of household is increased from $36,375 to $37,500; the limitation under section 25B(b)(1)(B) is increased from $39,375 to $40,500; and the limitation under sections 25B(b)(1)(C) and 25B(b)(1)(D) is increased from $60,375 to $62,250.

The adjusted gross income limitation under section 25B(b)(1)(A) for determining the Saver's Credit for all other taxpayers is increased from $24,250 to $25,000; the limitation under section 25B(b)(1)(B) is increased from $26,250 to $27,000; and the limitation under sections 25B(b)(1)(C) and 25B(b)(1)(D) is increased from $40,250 to $41,500.

**Drafting Information**

The principal author of this notice is the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS participated in the development of this guidance. For further information regarding this notice, please call (202) 317-6700 (not a toll-free number).

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# Sections 4375 & 4376 — Insured and Self-Insured Health Plans Adjusted Applicable Dollar Amount for Fee Imposed by Sections 4375 and 4376

# Notice 2026–69

## I. PURPOSE

This notice provides the adjusted applicable dollar amount to be multiplied by the average number of covered lives for purposes of calculating the fee imposed by sections 4375 and 4376 of the Internal Revenue Code for policy years and plan years that end on or after October 1, 2026, and before October 1, 2027.

## II. BACKGROUND

Section 4375 imposes a fee on the issuer of a specified health insurance policy for each policy year ending after September 30, 2012, and before October 1, 2029. Section 4376 imposes a fee on the plan sponsor of an applicable self-insured health plan for each plan year ending after September 30, 2012, and before October 1, 2029. The fee imposed by sections 4375 and 4376 helps to fund the Patient-Centered Outcomes Research Trust Fund and is calculated using the average number of lives covered under the policy or plan and the applicable dollar amount for that policy year or plan year. Under sections 4375(a) and 4376(a), the applicable dollar amount is $2 for policy and plan years ending on or

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[1] *Pursuant to section 45E(f)(2)(C)(iii), for a taxable year beginning in a calendar year after 2023, this limitation is equal to the initial limitation of $100,000, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "calendar year 2007" for "calendar year 2016" in section 1(f)(3)(A)(ii). Because the specification of a 2007 base period to be used for computing an adjustment that is first made for 2024 appears to be an error that has been identified as the subject of future legislative correction, the IRS will calculate and apply the limitation in section 45E(f)(2)(C) by substituting "calendar year 2022" for "calendar year 2007" in section 45E(f)(2)(C)(iii).*

[2] *Effective for taxable years beginning after December 31, 2026, Saver's Match contributions under section 6433 will replace the Saver's Credit under section 25B with respect to elective contributions made to qualifying retirement plans and IRAs. However, the Saver's Credit continues to be available after December 31, 2026, with respect to contributions made to ABLE accounts described in section 529A. See section IV.A. Q&A A-1 of Notice 2026-48, 2026-35 IRB 185.*

after October 1, 2013, and before October 1, 2014.[1] See Treas. Reg. §§ 46.4375-1(c)(4) and 46.4376-1(c)(3).

Under sections 4375(d) and 4376(d) and §§ 46.4375-1(c)(4) and 46.4376-1(c)(3), the applicable dollar amount for policy years and plan years ending in any Federal fiscal year beginning on or after October 1, 2014, is increased based on increases in the projected per capita amount of National Health Expenditures.

Specifically, the applicable dollar amount is the sum of—

(i) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; plus

(ii) The amount equal to the product of—

(A) The applicable dollar amount for the policy year or plan year ending in the previous Federal fiscal year; and

(B) The percentage increase in the projected per capita amount of the National Health Expenditures, as most recently released by the Department of Health and Human Services (HHS) before the beginning of the Federal fiscal year.

Notice 2025–61, 2025–45 IRB 693, provides that the adjusted applicable dollar amount for policy years and plan years that end on or after October 1, 2025, and before October 1, 2026, is $3.84.

## III. ADJUSTED APPLICABLE DOLLAR AMOUNT

The applicable dollar amount that must be used to calculate the fee imposed by sections 4375 and 4376 for policy years and plan years that end on or after October 1, 2026, and before October 1, 2027, is $4.05. The increase from the prior applicable dollar amount is calculated by multiplying $3.84 (which is the adjusted applicable dollar amount for policy years and plan years ending in the previous Federal fiscal year) by the percentage increase of the projected per capita amount of National Health Expenditures published by HHS on June 16, 2026. See: https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsProjected.html, Table 1. The percentage increase is calculated after adjustment to reflect updates to the data used to calculate the prior applicable dollar amount, $3.84, which was based on the per capita amounts of National Health Expenditures for 2024 and 2025 published by HHS on June 24, 2025.

## IV. EFFECTIVE DATE

This notice is effective for policy years and plan years ending on or after October 1, 2026, and before October 1, 2027.

## V. DRAFTING INFORMATION

The principal author of this notice is the Health and Welfare branch of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact 202–317–5500 (not a toll-free number).

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[1] *The applicable dollar amount is $1 for policy and plan years ending before October 1, 2013.*

*26 CFR 601.602: Tax forms and instructions.*
*(Also Part I, §§ 1, 23, 24, 32, 42, 45F, 45R, 55, 59, 62, 63, 125, 127, 132(f), 135, 137, 146, 147, 148, 152, 179, 179D, 199A, 213, 220, 221, 448, 461, 512, 513, 529A, 642, 831, 877, 877A, 911, 1202, 1274A, 2010, 2032A, 2503, 2523, 2801, 4161, 4261, 4611, 6033, 6039F, 6041, 6323, 6334, 6601, 6651, 6652, 6695, 6698, 6699, 6721, 6722, 6726, 7345, 7430, 7702B, 9831; 1.148-5.)*

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SECTION 1. PURPOSE

This revenue procedure sets forth inflation-adjusted items for 2027 for various Code provisions as in effect on November 6, 2026. The inflation adjusted items for the Code sections set forth in section 3 of this revenue procedure are generally determined by reference to § 1(f). If amendments to the Code are enacted for 2027 after November 6, 2026, taxpayers should consult additional guidance to determine whether these adjustments remain applicable for 2027.

SECTION 2. CHANGES

.01 Section 70431 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act amends § 1202(b). Certain amounts referred to in § 1202(b) are adjusted for inflation for years beginning after 2026.

SECTION 3. 2027 ADJUSTED ITEMS

.01 *Tax Rate Tables*. For taxable years beginning in 2027, the tax rate tables under § 1 are as follows:

TABLE 1 - Section 1(j)(2)(A) –Married Individuals Filing Joint Returns and Surviving Spouses

| *If Taxable Income Is*: | *The Tax Is*: |
|---|---|
| Not over $25,600 | 10% of the taxable income |
| Over $25,600 but not over $104,050 | $2,560.00 plus 12% of the excess over $25,600 |
| Over $104,050 but not over $218,250 | $11,974.00 plus 22% of the excess over $104,050 |
| Over $218,250 but not over $416,650 | $37,098.00 plus 24% of the excess over $218,250 |
| Over $416,650 but not over $529,100 | $84,714.00 plus 32% of the excess over $416,650 |
| Over $529,100 but not over $793,650 | $120,698.00 plus 35% of the excess over $529,100 |
| Over $793,650 | $213,290.50 plus 37% of the excess over $793,650 |

TABLE 2 - Section 1(j)(2)(B) – Heads of Households

| *If Taxable Income Is*: | *The Tax Is*: |
|---|---|
| Not over $18,250 | 10% of the taxable income |
| Over $18,250 but not over $69,650 | $1,825.00 plus 12% of the excess over $18,250 |
| Over $69,650 but not over $109,100 | $7,993.00 plus 22% of the excess over $69,650 |
| Over $109,100 but not over $208,300 | $16,672.00 plus 24% of the excess over $109,100 |
| Over $208,300 but not over $264,550 | $40,480.00 plus 32% of the excess over $208,300 |
| Over $264,550 but not over $661,350 | $58,480.00 plus 35% of the excess over $264,550 |
| Over $661,350 | $197,360.00 plus 37% of the excess over $661,350 |

TABLE 3 - Section 1(j)(2)(C) – Unmarried Individuals (other than Surviving Spouses and Heads of Households)

| *If Taxable Income Is*: | *The Tax Is*: |
|---|---|
| Not over $12,800 | 10% of the taxable income |
| Over $12,800 but not over $52,025 | $1,280.00 plus 12% of the excess over $12,800 |
| Over $52,025 but not over $109,125 | $5,987.00 plus 22% of the excess over $52,025 |
| Over $109,125 but not over $208,325 | $18,549.00 plus 24% of the excess over $109,125 |
| Over $208,325 but not over $264,550 | $42,357.00 plus 32% of the excess over $208,325 |
| Over $264,550 but not over $661,375 | $60,349.00 plus 35% of the excess over $264,550 |
| Over $661,375 | $199,237.75 plus 37% of the excess over $661,375 |

TABLE 4 - Section 1(j)(2)(D) – Married Individuals Filing Separate Returns

| *If Taxable Income Is*: | *The Tax Is*: |
|---|---|
| Not over $12,800 | 10% of the taxable income |
| Over $12,800 but not over $52,025 | $1,280.00 plus 12% of the excess over $12,800 |
| Over $52,025 but not over $109,125 | $5,987.00 plus 22% of the excess over $52,025 |
| Over $109,125 but not over $208,325 | $18,549.00 plus 24% of the excess over $109,125 |
| Over $208,325 but not over $264,550 | $42,357.00 plus 32% of the excess over $208,325 |
| Over $264,550 but not over $396,825 | $60,349.00 plus 35% of the excess over $264,550 |
| Over $396,825 | $106,645.25 plus 37% of the excess over $396,825 |

TABLE 5 - Section 1(j)(2)(E) – Estates and Trusts

| *If Taxable Income Is*: | *The Tax Is*: |
|---|---|
| Not over $3,400 | 10% of the taxable income |
| Over $3,400 but not over $12,100 | $340 plus 24% of the excess over $3,400 |
| Over $12,100 but not over $16,500 | $2,428 plus 35% of the excess over $12,100 |
| Over $16,500 | $3,968 plus 37% of the excess over $16,500 |

.02 *Unearned Income of Minor Children Subject to the "Kiddie Tax"*. For taxable years beginning in 2027, the amount in § 1(g)(4)(A)(ii)(I), which is used to reduce the net unearned income reported on the child's return that is subject to the "kiddie tax," is $1,400. This $1,400 amount is the same as the amount provided in § 63(c)(5)(A), as adjusted for inflation. The same $1,400 amount is used for purposes of § 1(g)(7) to determine whether a parent may elect to include a child's gross income in the parent's gross income and to calculate the "kiddie tax." For example, one of the requirements for the parental election is that a child's gross income is more than the amount referred to in § 1(g)(4)(A)(ii)(I) but less than 10 times that amount; thus, a child's gross income for 2027 must be more than $1,400 but less than $14,000.

.03 *Maximum Capital Gains Rate (§ 1(h), § 1(j)(5))*. For taxable years beginning in 2027, the maximum zero rate amounts and maximum 15 percent rate amounts under § 1(j)(5)(B), as adjusted for inflation, are as follows:

| *Filing Status* | *Maximum Zero Rate Amount* | *Maximum15% Rate Amount* |
|---|---|---|
| Married Individuals Filing Joint Returns and Surviving Spouse | $102,100 | $633,600 |
| Married Individuals Filing Separate Returns | $51,050 | $316,800 |
| Heads of Households | $68,350 | $598,400 |
| All Other Individuals | $51,050 | $563,200 |
| Estates and Trusts | $3,400 | $16,750 |

.04 *Adoption Credit*.

(1) *Adoption Credit for Children with Special Needs*. For taxable years beginning in 2027, under § 23(a)(3), the credit allowed for an adoption of a child with special needs is $18,250.

(2) *Adoption Credit Limitation*. For taxable years beginning in 2027, under § 23(b)(1), the maximum credit allowed for other adoptions is the amount of qualified adoption expenses up to $18,250. The available adoption credit begins to phase out under § 23(b)(2)(A) for taxpayers with modified adjusted gross income in excess of $273,680 and is completely phased out for taxpayers with modified adjusted gross income of $313,680 or more. See section 3.20 of this revenue procedure for the adjusted items relating to adoption assistance programs.

(3) *Refundable Portion*. For taxable years beginning in 2027, the amount used in § 23(a)(4) to determine the amount of the credit under § 23 that may be refundable is $5,280.

.05 *Child Tax Credit*.

(1) *Maximum amount of the credit*. For taxable years beginning in 2027, the maximum amount of the credit allowed under § 24(a) is $2,300.

(2) *Refundable portion*. For taxable years beginning in 2027, the amount used in § 24(d)(1)(A) to determine the amount of the credit under § 24 that may be refundable is $1,800.

.06 *Earned Income Credit*.

(1) *In general*. For taxable years beginning in 2027, the following amounts are used to determine the earned income credit under § 32(b). The "earned income amount" is the amount of earned income at or above which the maximum amount of the earned income credit is allowed. The "threshold phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) above which the maximum amount of the credit begins to phase out. The "completed phaseout amount" is the amount of adjusted gross income (or, if greater, earned income) at or above which no credit is allowed. The threshold phaseout amounts and the completed phaseout amounts shown in the table below for married taxpayers filing a joint return include the increase provided in § 32(b)(2)(B), as adjusted for inflation for taxable years beginning in 2027. The threshold phaseout amounts and the completed phaseout amounts shown in the table below for taxpayers with all other filing statuses also apply to married taxpayers who are not filing a joint return and satisfy the special rules for separated spouses in § 32(d).

| *Item* | *One Qualifying Child* | *Two Qualifying Children* | *Three or More Qualifying Children* | *No Qualifying Children* |
|---|---|---|---|---|
| Earned Income Amount | $13,450 | $18,880 | $18,880 | $8,960 |
| Maximum Amount of Credit | $4,573 | $7,552 | $8,496 | $685 |
| Threshold Phaseout Amount (Married Filing Jointly) | $32,170 | $32,170 | $32,170 | $18,730 |
| Completed Phaseout Amount (Married Filing Jointly) | $60,787 | $68,029 | $72,512 | $27,684 |
| Threshold Phaseout Amount (All other filing statuses) | $24,660 | $24,660 | $24,660 | $11,210 |
| Completed Phaseout Amount (All other filing statuses) | $53,277 | $60,519 | $65,002 | $20,164 |

The instructions for the Form 1040 series provide tables showing the amount of the earned income credit for each type of taxpayer.

(2) *Excessive Investment Income*. For taxable years beginning in 2027, the earned income tax credit is not allowed under § 32(i) if the aggregate amount of certain investment income exceeds $12,600.

.07 *Rehabilitation Expenditures Treated as Separate New Building*. For

calendar year 2027, the per low-income unit qualified basis amount under § 42(e)(3)(A)(ii)(II) is $9,000.

.08 *Low-Income Housing Credit*. For calendar year 2027, the amount used under § 42(h)(3)(C)(ii) to calculate the State housing credit ceiling for the low-income housing credit is the greater of (1) $3.53 multiplied by the State population, or (2) $4,082,400.

.09 *Employer-Provided Child Care Credit*. For taxable years beginning in 2027, the maximum allowable credit under § 45F(b) is $515,943.67 ($619,132.40 in the case of an eligible small business).

.10 *Employee Health Insurance Expense of Small Employers*. For taxable years beginning in 2027, the dollar amount in effect under § 45R(d)(3)(B) is $35,162.04. This amount is used under § 45R(c) for limiting the small employer health insurance credit and under § 45R(d)(1)(B) for determining who is an eligible small employer for purposes of the credit.

.11 *Exemption Amounts for Alternative Minimum Tax*. For taxable years beginning in 2027, the exemption amounts under § 55(d)(1) are:

| | |
|---|---|
| Joint Returns or Surviving Spouses | $144,700 |
| Unmarried Individuals (other than Surviving Spouses) | $93,000 |
| Married Individuals Filing Separate Returns | $72,350 |
| Estates and Trusts | $32,500 |

For taxable years beginning in 2027, under § 55(b)(1), the excess taxable income above which the 28 percent tax rate applies is:

| | |
|---|---|
| Married Individuals Filing Separate Returns | $126,250 |
| All Other Taxpayers | $252,500 |

For taxable years beginning in 2027, the amounts used under § 55(d)(2) to determine the phaseout of the exemption amounts are:

| *Filing Status* | *Threshold Phaseout Amount* | *Complete Phaseout Amount* |
|---|---|---|
| Joint Returns or Surviving Spouses | $1,031,900 | $1,321,300 |
| Unmarried Individuals (other than Surviving Spouses) | $515,950 | $701,950 |
| Married Individuals Filing Separate Returns | $515,950 | $660,650 |
| Estates and Trusts | $108,200 | $173,200 |

.12 *Alternative Minimum Tax Exemption for a Child Subject to the "Kiddie Tax*." For taxable years beginning in 2027, for a child to whom the § 1(g) "kiddie tax" applies, the exemption amount under §§ 55(d) and 59(j) for purposes of the alternative minimum tax under § 55 may not exceed the sum of (1) the child's earned income for the taxable year, plus (2) $10,050.

.13 *Certain Expenses of Elementary and Secondary School Teachers*. For taxable years beginning in 2027, under § 62(a)(2)(D), the amount of the deduction allowed under § 162 that consists of expenses paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom is $350.

.14 *Transportation Mainline Pipeline Construction Industry Optional Expense Substantiation Rules for Payments to Employees Under Accountable Plans*. For calendar year 2027, an eligible employer may pay certain welders and heavy equipment mechanics an amount up to $23 per hour for rig-related expenses that are deemed substantiated under an accountable plan if paid in accordance with Rev. Proc. 2002-41, 2002-1 C.B. 1098. If the employer provides fuel or otherwise reimburses fuel expenses, an amount up to $14 per hour is deemed substantiated if paid in accordance with Rev. Proc. 2002-41.

.15 *Standard Deduction*.

(1) *In general*. For taxable years beginning in 2027, the standard deduction amounts under § 63(c)(2) are as follows:

| *Filing Status* | *Standard Deduction* |
|---|---|
| Married Individuals Filing Joint Returns and Surviving Spouses (§ 1(j)(2)(A)) | $33,200 |
| Heads of Households (§ 1(j)(2)(B)) | $24,925 |
| Unmarried Individuals (other than Surviving Spouses and Heads of Households) (§ 1(j)(2)(C)) | $16,600 |
| Married Individuals Filing Separate Returns (§ 1(j)(2)(D)) | $16,600 |

(2) *Dependent*. For taxable years beginning in 2027, the standard deduction amount under § 63(c)(5) for an individual who may be claimed as a dependent by another taxpayer cannot exceed the greater of (1) $1,400, or (2) the sum of $500 and the individual's earned income.

(3) *Aged or blind*. For taxable years beginning in 2027, the additional standard deduction amount under § 63(f) for the aged or the blind is $1,700. The additional standard deduction amount is increased to $2,100 if the individual is also unmarried and not a surviving spouse.

.16 *Cafeteria Plans*. For taxable years beginning in 2027, the dollar limitation under § 125(i) on voluntary employee salary reductions for contributions to health flexible spending arrangements is $3,500. If the cafeteria plan permits the carryover of unused amounts, the maximum carryover amount is $700.

.17 *Educational Assistance Program Exclusion*. For taxable years beginning in 2027, the amount that can be excluded from an employee's gross income under § 127(a) for educational assistance is $5,400.

.18 *Qualified Transportation Fringe Benefit*. For taxable years beginning in 2027, the monthly limitation under § 132(f)(2)(A) regarding the aggregate fringe benefit exclusion amount for transportation in a commuter highway vehicle and any transit pass is $350. The monthly limitation under § 132(f)(2)(B) regarding the fringe benefit exclusion amount for qualified parking is $350.

.19 *Income from United States Savings Bonds for Taxpayers Who Pay Qualified Higher Education Expenses*. For taxable years beginning in 2027, the exclusion under § 135, regarding income from United States savings bonds for taxpayers who pay qualified higher education expenses, begins to phase out for modified adjusted gross income above $157,600 for joint returns and $105,100 for all other returns. The exclusion is completely phased out for modified adjusted gross income of $187,600 or more for joint returns and $120,100 or more for all other returns.

.20 *Adoption Assistance Programs*. For taxable years beginning in 2027, under § 137(a)(2), the amount that can be excluded from an employee's gross income for the adoption of a child with special needs is $18,250. For taxable years beginning in 2027, under § 137(b)(1) the maximum amount that can be excluded from an employee's gross income for the amounts paid or expenses incurred by an employer for qualified adoption expenses furnished pursuant to an adoption assistance program for adoptions by the employee is $18,250. The amount excludable from an employee's gross income begins to phase out under § 137(b)(2)(A) for taxpayers with modified adjusted gross income in excess of $273,680 and is completely phased out for taxpayers with modified adjusted gross income of $313,680 or more. See section 3.04 of this revenue procedure for the adjusted items relating to the adoption credit.

.21 *Private Activity Bonds Volume Cap*. For calendar year 2027, the amounts used under § 146(d) to calculate the State ceiling for the volume cap for private activity bonds is the greater of (1) $135 multiplied by the State population, or (2) $410,520,000.

.22 *Loan Limits on Agricultural Bonds*. For calendar year 2027, the loan limit amount on agricultural bonds under § 147(c)(2)(A) for first-time farmers is $704,800.

.23 *General Arbitrage Rebate Rules*. For bond years ending in 2027, the amount of the computation credit determined under § 1.148-3(d)(4) of the Income Tax Regulations is $2,240.

.24 *Safe Harbor Rules for Broker Commissions on Guaranteed Investment Contracts or Investments Purchased for a Yield Restricted Defeasance Escrow*. For calendar year 2027, under § 1.148-5(e)(2)(iii)(B)(1) of the Income Tax Regulations, a broker's commission or similar fee for the acquisition of a guaranteed investment contract or investments purchased for a yield restricted defeasance escrow is reasonable if (1) the amount of the fee that the issuer treats as a qualified administrative cost does not exceed the lesser of (A) $53,000, and (B) 0.2 percent of the computational base (as defined in § 1.148-5(e)(2)(iii)(B)(*2*)) or, if more, $5,000; and (2) for any issue, the issuer does not treat more than $149,000 in brokers' commissions or similar fees as qualified administrative costs for all guaranteed investment contracts and investments for yield restricted defeasance escrows purchased with gross proceeds of the issue.

.25 *Gross Income Limitation for a Qualifying Relative*. For taxable years beginning in 2027, the exemption amount referred to in § 152(d)(1)(B) is $5,500.

.26 *Election to Expense Certain Depreciable Assets*. For taxable years beginning in 2027, under § 179(b)(1), the aggregate cost of any § 179 property that a taxpayer elects to treat as an expense cannot exceed $2,640,000 and, under § 179(b)(5)(A), the cost of any sport utility vehicle that may be taken into account under § 179 cannot exceed $33,100. Under § 179(b)(2), the $2,640,000 limitation under § 179(b)(1) is reduced (but not below zero) by the amount by which the cost of § 179 property placed in service during the 2027 taxable year exceeds $4,230,000.

.27 *Energy Efficient Commercial Buildings Deduction*. For taxable years beginning in 2027, the applicable dollar value used to determine the maximum allowance of the deduction under § 179D(b)(2) is $0.61 increased (but not above $1.23) by $0.02 for each percentage point by which the total annual energy and power costs for the buildings are certified to be reduced by a percentage greater than 25 percent. For taxable years beginning in 2027, the applicable dollar value used to determine the increased deduction amount for certain property under § 179D(b)(3) is $3.07 increased (but not above $6.13) by $0.12 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25 percent.

.28 *Qualified Business Income*.

(1) *Threshold Amounts*. For taxable years beginning in 2027, the threshold amounts under § 199A(e)(2) and phase-in range amounts under § 199A(b)(3)(B) and § 199A(d)(3)(A) are:

| *Filing Status* | *Threshold amount* | *Phase-in range amount* |
|---|---|---|
| Married Individuals Filing Joint Returns | $416,600 | $566,600 |
| Married Individuals Filing Separate Returns | $208,325 | $283,325 |
| All Other Returns | $208,300 | $283,300 |

(2) *Minimum Deduction and Qualified Business Income Amounts*. For taxable years beginning in 2027, the minimum amount of aggregate qualified business income necessary for a taxpayer to be an "applicable taxpayer" under § 199A(i)(2)(A) is $1,030. For taxable years beginning in 2027, an applicable taxpayer's minimum deduction amount provided in § 199A(i)(1)(B) for active qualified business income is $415.

.29 *Eligible Long-Term Care Premiums*. For taxable years beginning in 2027, the limitations under § 213(d)(10), regarding eligible long-term care premiums includible in the term "medical care" are as follows:

| *Attained Age Before the Close of the Taxable Year* | *Limitation on Premiums* |
|---|---|
| 40 or less | $500 |
| More than 40 but not more than 50 | $945 |
| More than 50 but not more than 60 | $1,890 |
| More than 60 but not more than 70 | $5,030 |
| More than 70 | $6,290 |

.30 *Medical Savings Accounts*.

(1) *Self-only coverage*. For taxable years beginning in 2027, the term "high deductible health plan" as defined in § 220(c)(2)(A) means, for self-only coverage, a health plan that has an annual deductible that is not less than $3,000 and not more than $4,550, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits do not exceed $6,050.

(2) *Family coverage*. For taxable years beginning in 2027, the term "high deductible health plan" means, for family coverage, a health plan that has an annual deductible that is not less than $6,050 and not more than $9,050, and under which the annual out-of-pocket expenses required to be paid (other than for premiums) for covered benefits do not exceed $11,050.

.31 *Interest on Education Loans*. For taxable years beginning in 2027, the $2,500 maximum deduction for interest paid on qualified education loans under § 221 begins to phase out under § 221(b)(2)(B), as adjusted for inflation, for taxpayers with modified adjusted gross income in excess of $90,000 ($180,000 for joint returns), and is completely phased out for taxpayers with modified adjusted gross income of $105,000 or more ($210,000 or more for joint returns).

.32 *Limitation on Use of Cash Method of Accounting*. For taxable years beginning in 2027, a corporation or partnership meets the gross receipts test of § 448(c) for any taxable year if the average annual gross receipts of such entity for the 3-taxable-year period ending with the taxable year which precedes such taxable year does not exceed $33,000,000.

.33 *Limitation on Excess Business Loss*. For taxable years beginning in 2027, in determining a taxpayer's excess business loss, the amount under § 461(l)(3)(A)(ii)(II) is $264,000 ($528,000 for joint returns).

.34 *Treatment of Dues Paid to Agricultural or Horticultural Organizations*. For taxable years beginning in 2027, the limitation under § 512(d)(1), regarding the exemption of annual dues required to be paid by a member to an agricultural or horticultural organization, is $218.44.

.35 *Insubstantial Benefit Limitations for Contributions Associated with Charitable Fund-Raising Campaigns*.

(1) *Low cost article*. For taxable years beginning in 2027, for purposes of defining the term "unrelated trade or business" for certain exempt organizations under § 513(h)(2), "low cost articles" are articles costing $14.33 or less.

(2) *Other insubstantial benefits*. For taxable years beginning in 2027, under § 170, the $5, $25, and $50 guidelines in section 3 of Rev. Proc. 90-12, 1990-1 C.B. 471 (as amplified by Rev. Proc. 92-49, 1992-1 C.B. 987, and modified by Rev. Proc. 92-102, 1992-2 C.B. 579), for the value of insubstantial benefits that may be received by a donor in return for a contribution, without causing the contribution to fail to be fully deductible, are $14.33, $71.65 and $143.30, respectively.

.36 *Aggregate Limitation on Contributions to ABLE Accounts*. For taxable years beginning in 2027, $20,000 (instead of the amount under provided in section 3.46(1) of this revenue procedure) is included in the aggregate limitation on contributions to ABLE accounts under § 529A(b)(2)(B)(i).

.37 *Special Rules for Credits and Deductions*. For taxable years beginning in 2027, the amount of the deduction under § 642(b)(2)(C)(i) is $5,450.

.38 *Tax on Insurance Companies Other than Life Insurance Companies*. For taxable years beginning in 2027, under § 831(b)(2)(A)(i) the amount of the limit on net written premiums or direct written premiums (whichever is greater) is $3,000,000 to elect the alternative tax for certain small companies under § 831(b)(1) to be taxed only on taxable investment income.

.39 *Expatriation to Avoid Tax*. For calendar year 2027, under § 877A(g)(1)(A), unless an exception under § 877A(g)(1)(B) applies, an individual is a covered expatriate if the individual's "average annual net income tax" under § 877(a)(2)(A) for the five taxable years ending before the expatriation date is more than $218,000.

.40 *Tax Responsibilities of Expatriation*. For taxable years beginning in 2027, the amount that would be includible in the gross income of a covered expatriate by reason of § 877A(a)(1) is reduced (but not below zero) by $940,000 pursuant to § 877A(a)(3).

.41 *Foreign Earned Income Exclusion*. For taxable years beginning in 2027, the foreign earned income exclusion amount under § 911(b)(2)(D)(i) is $137,300.

.42 *Partial Exclusion for Gain from Certain Small Business Stock*.

(1) For taxable years beginning in 2027, the $15,000,000 amount referred to in § 1202(b)(4)(B) is adjusted to $15,480,000.

(2) For taxable years beginning in 2027, the $75,000,000 amount referred to in the introductory clause in § 1202(b)(4) is adjusted to $77,390,000.

.43 *Debt Instruments Arising Out of Sales or Exchanges*. For calendar year 2027, a qualified debt instrument under § 1274A(b) has stated principal that does not exceed $7,704,600, and a cash method debt instrument under § 1274A(c)(2) has stated principal that does not exceed $5,503,300.

.44 *Basic Exclusion Amount for Estate Tax*. For calendar year 2027, the basic exclusion amount under § 2010(c)(3) is $15,480,000. The basic exclusion amount is used in determining the applicable credit amount against estate tax described in section 2010(c)(1) and the applicable credit amount against gift tax described in section 2505(a)(1). The basic exclusion amount is also used in determining the generation-skipping transfer exemption amount under section 2631(c).

.45 *Limitation on Aggregate Decrease in Value of Qualified Real Property in Decedent's Gross Estate*. For an estate of a decedent dying in calendar year 2027, if the executor elects to use the special use valuation method under § 2032A for qualified real property, the aggregate decrease in the value of qualified real property resulting from electing to use § 2032A for purposes of the estate tax cannot exceed $1,500,000.

.46 *Annual Exclusion for Gifts and Annual Exception for Covered Gifts and Covered Bequests Received from a Covered Expatriate*.

(1) For calendar year 2027, the first $20,000 of gifts to any person (other than gifts of future interests in property) are not included in the total amount of taxable gifts under § 2503 made during that year.

(2) For calendar year 2027, the first $201,000 (instead of the amount provided in paragraph (1) of this section 3.46) of gifts to a spouse who is not a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts under §§ 2503 and 2523(i)(2) made during that year.

(3) The tax imposed under § 2801 on the receipt of covered gifts or covered bequests from a covered expatriate shall apply only to the extent that the value of covered gifts and covered bequests received during calendar year 2027 exceeds $20,000.

.47 *Tax on Arrow Shafts*. For calendar year 2027, the tax imposed under § 4161(b)(2)(A) on the first sale by the manufacturer, producer, or importer of any shaft of a type used in the manufacture of certain arrows is $0.67 per shaft.

.48 *Passenger Air Transportation Excise Tax*. For calendar year 2027, the tax under § 4261(b)(1) on the amount paid for each domestic segment of taxable air transportation is $5.50. For calendar year 2027, the tax under § 4261(c)(1) on any amount paid (whether within or without the United States) for any international air transportation, if the transportation begins or ends in the United States, generally is $24.10. Under § 4261(c)(3), however, a lower rate of tax applies under § 4261(c)(1) to a domestic segment beginning or ending in Alaska or Hawaii, and the tax applies only to departures. For calendar year 2027, the rate of tax is $12.10.

.49 *Tax on Certain Uses of Crude Oil and Petroleum Products*. For calendar year 2027, the tax imposed under § 4611(a) on crude oil received at a United States refinery and petroleum products entered into the United States for consumption, use, or warehousing is $0.18 per barrel, which is the sum of the inflation-adjusted Hazardous Substance Superfund financing rate of $0.18 per barrel under § 4611(c)(2)(A) and the applicable Oil Spill Liability Trust Fund financing rate of $0.00 per barrel under § 4611(c)(2)(B) and (f)(2).

.50 *Reporting Exception for Certain Exempt Organizations with Nondeductible Lobbying Expenditures*. For taxable years beginning in 2027, the annual per person, family, or entity dues limitation to qualify for the reporting exception under § 6033(e)(3) (and section 5.05 of Rev. Proc. 98-19, 1998-1 C.B. 547), regarding certain exempt organizations with nondeductible lobbying expenditures, is $151.00 or less.

.51 *Notice of Large Gifts Received from Foreign Persons*. For taxable years beginning in 2027, § 6039F authorizes the Secretary of the Treasury or the Secretary's delegate to require recipients of gifts from certain foreign persons to report these gifts if the aggregate value of gifts received in the taxable year exceeds $21,240.31.

.52 *Payment Reporting Threshold*. For payments made in calendar year 2027, the reporting threshold for payments described in § 6041(a) is $2,100.

.53 *Persons Against Whom a Federal Tax Lien Is Not Valid*. For calendar year 2027, a federal tax lien is not valid against (1) certain purchasers under § 6323(b)(4) who purchased personal property in a casual sale for less than $2,070, or (2) a mechanic's lienor under § 6323(b)(7) who repaired or improved certain residential property if the contract price with the owner is not more than $10,340.

.54 *Property Exempt from Levy*. For calendar year 2027, the value of property exempt from levy under § 6334(a)(2) (fuel, provisions, furniture, and other household personal effects, as well as arms for personal use, livestock, and poultry) cannot exceed $12,370. The value of property exempt from levy under § 6334(a)(3) (books and tools necessary for the trade, business, or profession of the taxpayer) cannot exceed $6,180.

.55 *Exempt Amount of Wages, Salary, or Other Income*. For taxable years beginning in 2027, the dollar amount used to calculate the amount determined under § 6334(d)(4)(B) is $5,450.

.56 *Interest on a Certain Portion of the Estate Tax Payable in Installments*. For an estate of a decedent dying in calendar year 2027, the dollar amount used to determine the "2-percent portion" (for purposes of calculating interest under § 6601(j)) of the estate tax extended as provided in § 6166 is $2,010,000.

.57 *Failure to File Tax Return*. In the case of any return required to be filed in 2028, the amount of the addition to tax under § 6651(a) for failure to file an income tax return within 60 days of the due date of such return (determined with regard to any extensions of time for filing) will not be less than the lesser of $555 or 100 percent of the amount required to be shown as tax on such return.

.58 *Failure to File Certain Information Returns, Registration Statements, etc*. For

returns required to be filed in 2028, the penalty amounts under § 6652(c) are:

(1) for failure to file a return required under § 6033(a)(1) (relating to returns by exempt organization) or § 6012(a)(6) (relating to returns by political organizations):

| *Scenario* | *Daily Penalty* | *Maximum Penalty* |
|---|---|---|
| Organization (§ 6652(c)(1)(A)) | $25 | Lesser of $13,500 or 5% of gross receipts of the organization for the year. |
| Organization with gross receipts exceeding $1,383,000 (§ 6652(c)(1)(A)) | $135 | $69,000 |
| Managers (§ 6652(c)(1)(B)) | $10 | $6,500 |
| Public inspection of annual returns and reports (§ 6652(c)(1)(C)) | $25 | $13,500 |
| Public inspection of applications for exemption and notice of status (§ 6652(c)(1)(D)) | $25 | No Limit |

(2) for failure to file a return required under § 6034 (relating to returns by certain trust) or § 6043(b) (relating to terminations, etc., of exempt organizations):

| *Scenario* | *Daily Penalty* | *Maximum Penalty* |
|---|---|---|
| Organization or trust (§ 6652(c)(2)(A)) | $10 | $6,500 |
| Managers (§ 6652(c)(2)(B)) | $10 | $6,500 |
| Split-Interest Trust (§ 6652(c)(2)(C)) | $25 | $13,500 |
| Any trust with gross income exceeding $345,500 (§ 6652(c)(2)(C)(ii)) | $135 | $69,000 |

(3) for failure to file a disclosure required under § 6033(a)(2):

| *Scenario* | *Daily Penalty* | *Maximum Penalty* |
|---|---|---|
| Tax–exempt entity (§ 6652(c)(3)(A)) | $135 | $69,000 |
| Failure to comply with written demand (§ 6652(c)(3)(B)(ii)) | $135 | $13,500 |

.59 *Other Assessable Penalties with Respect to the Preparation of Tax Returns for Other Persons*. In the case of any failure relating to a return or claim for refund filed isn 2028, the penalty amounts under § 6695 are:

| *Scenario* | *Per Return or Claim for Refund* | *Maximum Penalty* |
|---|---|---|
| Failure to furnish copy to taxpayer (§ 6695(a)) | $65 | $34,500 |
| Failure to sign return (§ 6695(b)) | $65 | $34,500 |
| Failure to furnish identifying number (§ 6695(c)) | $65 | $34,500 |
| Failure to retain copy or list (§ 6695(d)) | $65 | $34,500 |
| Failure to file correct information returns (§ 6695(e)) | $65 per return and item in return | $34,500 |
| Negotiation of check (§ 6695(f)) | $690 per check | No limit |
| Failure to be diligent in determining eligibility for head of household filing status, child tax credit, American Opportunity tax credit, and earned income credit (§ 6695(g)) | $690 per failure | No limit |

.60 *Failure to File Partnership Return*. In the case of any return required to be filed in 2028, the dollar amount used to determine the amount of the penalty under § 6698(b)(1) is $265.

.61 *Failure to File S Corporation Return*. In the case of any return required to be filed in 2028, the dollar amount used to determine the amount of the penalty under § 6699(b)(1) is $265.

.62 *Failure to File Correct Information Returns*. In the case of any failure relating to a return required to be filed in 2028, the penalty amounts under § 6721 are:

(1) for persons with average annual gross receipts for the most recent three taxable years of more than $5,000,000, for failure to file correct information returns:

| *Scenario* | *Penalty Per Return* | *Calendar Year Maximum* |
|---|---|---|
| General Rule (§ 6721(a)(1)) | $360 | $4,327,500 |
| Corrected on or before 30 days after required filing date (§ 6721(b)(1)) | $70 | $721,000 |
| Corrected after 30th day but on or before August 1, 2028 (§ 6721(b)(2)) | $140 | $2,163,500 |

(2) for persons with average annual gross receipts for the most recent three taxable years of $5,000,000 or less, for failure to file correct information returns:

| *Scenario* | *Penalty Per Return* | *Calendar Year Maximum* |
|---|---|---|
| General Rule (§ 6721(d)(1)(A)) | $360 | $1,442,500 |
| Corrected on or before 30 days after required filing date (§ 6721(d)(1)(B)) | $70 | $252,000 |
| Corrected after 30th day but on or before August 1, 2028 (§ 6721(d)(1)(C)) | $140 | $721,000 |

(3) for failure to file correct information returns due to intentional disregard of the filing requirement (or the correct information reporting requirement):

| *Scenario* | *Penalty Per Return* | *Calendar Year Maximum* |
|---|---|---|
| Return other than a return required to be filed under §§ 6045(a), 6041A(b), 6050H, 6050I, 6050J, 6050K, or 6050L (§ 6721(e)(2)(A)) | Greater of (i) $720, or (ii) 10% of aggregate amount of items required to be reported correctly | No limit |
| Return required to be filed under §§ 6045(a), 6050K, or 6050L (§ 6721(e)(2)(B)) | Greater of (i) $720, or (ii) 5% of aggregate amount of items required to be reported correctly | No limit |
| Return required to be filed under § 6050I(a) (§ 6721(e)(2)(C)) | Greater of (i) $36,060, or (ii) amount of cash received up to $144,000 | No limit |
| Return required to be filed under § 6050V (§ 6721(e)(2)(D)) | Greater of (i) $720, or (ii) 10% of the value of the benefit of any contract with respect to which information is required to be included on the return | No limit |

.63 *Failure to Furnish Correct Payee Statements*. In the case of any failure relating to a statement required to be furnished in 2028, the penalty amounts under § 6722 are:

(1) for persons with average annual gross receipts for the most recent three taxable years of more than $5,000,000, for failure to furnish correct payee statements:

| *Scenario* | *Penalty Per Statement* | *Calendar Year Maximum* |
|---|---|---|
| General Rule (§ 6722(a)(1)) | $360 | $4,327,500 |
| Corrected on or before 30 days after required furnishing date (§ 6722(b)(1)) | $70 | $721,000 |
| Corrected after 30th day but on or before August 1, 2028 (§ 6722(b)(2)) | $140 | $2,163,500 |

(2) for persons with average annual gross receipts for the most recent 3 taxable years of $5,000,000 or less, for failure to furnish correct payee statements:

| *Scenario* | *Penalty Per Statement* | *Calendar Year Maximum* |
|---|---|---|
| General Rule (§ 6722(d)(1)(A)) | $360 | $1,442,500 |
| Corrected on or before 30 days after required furnishing date (§ 6722(d)(1)(B)) | $70 | $252,000 |
| Corrected after 30th day but on or before August 1, 2028 (§ 6722(d)(1)(C)) | $140 | $721,000 |

(3) for failure to furnish correct payee statements due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement):

| *Scenario* | *Penalty Per Statement* | *Calendar Year Maximum* |
|---|---|---|
| Payee statement other than a statement required under §§ 6045(b), 6041A(e) (in respect of a return required under §§ 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c) (§ 6722(e)(2)(A)) | Greater of (i) $720, or (ii) 10% of aggregate amount of items required to be reported correctly | No limit |
| Payee statement required under §§ 6045(b), 6050K(b), or 6050L(c) (§ 6722(e)(2)(B)) | Greater of (i) $720, or (ii) 5% of aggregate amount of items required to be reported correctly | No limit |

.64 *Failure to Comply with Information Reporting Requirements Relating to Qualified Opportunity Funds and Qualified Rural Opportunity Funds*. In the case of any return required to be filed in 2028, the penalty amount under § 6726 for failure to file a return in the time and manner prescribed for a qualified opportunity fund or qualified rural opportunity fund under § 6039K is $520 per day with a maximum penalty of $10,000 per return ($52,000 if the gross assets of the fund are greater than $10,560,000). If the failure to file in the time and manner prescribed is due to intentional disregard, then the penalty is $2,640 per day with a maximum penalty is $52,000 per return ($264,000 if the gross assets of the fund are greater than $10,560,000).

.65 *Revocation or Denial of Passport in Case of Certain Tax Delinquencies*. For calendar year 2027, a federal tax liability must be greater than $68,000 to be considered seriously delinquent tax debt under § 7345.

.66 *Attorney Fee Awards*. For fees incurred in calendar year 2027, the attorney fee award limitation under § 7430(c)(1)(B)(iii) is $270 per hour.

.67 *Periodic Payments Received Under Qualified Long-Term Care Insurance Contracts or Under Certain Life Insurance Contracts*. For calendar year 2027, the stated dollar amount of the per diem limitation under § 7702B(d)(4), regarding periodic payments received under a qualified long-term care insurance contract or periodic payments received under a life insurance contract that are treated as paid by reason of the death of a chronically ill individual, is $445.

.68 *Qualified Small Employer Health Reimbursement Arrangement*. For taxable years beginning in 2027, to qualify as a qualified small employer health reimbursement arrangement under § 9831(d), the arrangement must provide that the total amount of payments and reimbursements for any year cannot exceed $6,700 ($13,550 for family coverage).

## SECTION 4. EFFECTIVE DATE

.01 *General Rule*. Except as provided in section 4.02 of this revenue procedure, this revenue procedure applies to taxable years beginning in 2027.

.02 *Calendar Year Rule*. Section 3 of this revenue procedure applies to transactions or events occurring in calendar year 2027 for purposes of sections 3.07 (rehabilitation expenditures treated as separate new building), 3.08 (low-income housing credit), 3.14 (transportation mainline pipeline construction industry optional expense substantiation rules for payments to employees under accountable plans), 3.21 (private activity bonds volume cap), 3.22 (loan limits on agricultural bonds), 3.23 (general arbitrage rebate rules), 3.24 (safe harbor rules for broker commissions on guaranteed investment contracts or investments purchased for a yield restricted defeasance escrow), 3.39 (expatriation to avoid tax), 3.43 (debt instruments arising out of sales or exchanges), 3.44 (basic exclusion amount for estate tax), 3.45 (limitation on aggregate decrease in value of qualified real property in decedent's gross estate), 3.46 (annual exclusion for gifts and annual exception for covered gifts and covered bequests received from a covered expatriate), 3.47 (tax on arrow shafts), 3.48 (passenger air transportation excise tax), 3.49 (tax on certain uses of crude oil and petroleum products), 3.53 (persons against whom a federal tax lien is not valid), 3.54 (property exempt from levy), 3.56 (interest on a certain portion of the estate tax payable in installments), 3.65 (revocation or denial of passport in case of certain tax delinquencies), 3.66 (attorney fee awards), and 3.67 (periodic payments received under qualified long-term care insurance contracts or under certain life insurance contracts) of this revenue procedure.

## SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Michael Finn of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Finn at (202) 317-4718 (not a toll-free number).

# Part IV

## Deletions From Cumulative List of Organizations, Contributions to Which are Deductible Under Section 170 of the Code

## Announcement 2026-18

The Internal Revenue Service has revoked its determination that the organization listed below qualifies as an organization described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the IRS will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the IRS is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on _____ and would end on the date the court first determines the organization is not described in section 170(c)(2) as more particularly set for in section 7428(c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

The Following organization is no longer qualified as an organization exempt from income tax under Internal Revenue Code (the "Code") Section 501(a) as an organization described in Section 501(c)(3) of the Code:

| NAME OF ORGANIZATION | EFFECTIVE DATE OF REVOCATION | LOCATION |
|---|---|---|
| EARTH LODGE INC | 01/01/2022 | BUZZARDS BAY, MA |

# Deletions From Cumulative List of Organizations, Contributions to Which are Deductible Under Section 170 of the Code

## Announcement 2026-19

Table of Contents

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the IRS will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the IRS is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on October 27, 2026, and would end on the date the court first determines the organization is not described in section 170(c)(2) as more particularly set for in section 7428(c)(1). For individual contributors, the maximum deduction protected is $1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

| Name Of Organization | Effective Date of Revocation | Location |
|---|---|---|
| Midwest Youth Pigeon Association | 01/01/2022 | St. Paul, MN |
| Art for Healing Foundation | 01/01/2021 | Toms River, NJ |
| Kiwanis Club of Greater Pasippany | 10/01/2022 | Parsippany, NJ |
| Haven & Earth LLC | 01/01/2022 | Fort Worth, TX |
| House of Refuge Outreach Twin Cities | 07/23/2021 | Willernie, MN |
| Veterans Action Association | 01/01/2022 | Rocklin, CA |
| Too Be Free Recovery Incorporated | 01/01/2023 | San Bernardino, CA |
| Abigail Van Vleck Charitable Trust | 01/01/2023 | New Caney, TX |
| Enlightened Living Enterprises Charitable Corp | 01/01/2023 | Kula, HI |
| No Greater Love | 01/01/2022 | Brookhaven, PA |

# Notice of Proposed Rulemaking

# Federal Scholarship Tax Credit

# REG-117199-25

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and public hearing.

**SUMMARY:** This document contains proposed regulations regarding the nonrefundable Federal tax credit for qualified contributions to scholarship granting organizations to fund qualified elementary and secondary school education scholarships. The proposed regulations would affect taxpayers who make such qualified contributions, States that elect to participate by certifying organizations as scholarship granting organizations, and the organizations that have been certified as scholarship granting organizations by one or more electing States. This document also provides notice of a public hearing on the proposed regulations.

**DATES:** Written or electronic comments must be received by December 1, 2026. The public hearing is being held on Tuesday, December 15, 2026, at 10 a.m. Eastern Time (ET). Requests to speak and outlines of topics to be discussed at the public hearing must be received by December 1, 2026. If no outlines are received by December 1, 2026, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. ET on Thursday, December 10, 2026.

**ADDRESSES:** Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG-117199-25) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG-117199-25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Constance Chien, (202) 317-7002, or Andrew Fahmy, (202) 317-3840; concerning the submission of comments, the public hearing, and to be placed on the building access list to attend the public hearing, Publications and Regulations Section, (202) 317-6901 (not toll-free numbers) or by email at *publichearings@irs.gov* (preferred).

**SUPPLEMENTARY INFORMATION:**

**Authority**

This document contains proposed additions to 26 CFR part 1 (Income Tax Regulations) addressing the application of the credit available for qualified contributions under section 25F of the Internal Revenue Code (Code),[1] as added by section 70411 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

The proposed regulations are issued under section 25F(h), which expressly delegates authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) to issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of section 25F, including regulations or other guidance (1) providing for enforcement of the requirements under section 25F(d) and (g), and (2) with respect to recordkeeping or information reporting for purposes of administering the requirements of section 25F. The proposed regulations also are issued under the express delegation of authority in section 7805(a) of the Code, which authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

**Background**

**I. Overview**

As added by section 70411(a) of the OBBBA, the nonrefundable income tax credit under section 25F (section 25F credit) is allowed to an individual who is a citizen or resident of the United States (within the meaning of section 7701(a)(9)) who makes qualified contributions to scholarship granting organizations. For purposes of the section 25F credit, section 25F(c)(5) defines a "scholarship granting organization" (SGO) as any organization that (1) is a public charity, (2) prevents the co-mingling of qualified contributions with other amounts by maintaining separate accounts, (3) satisfies each of the requirements of section 25F(d), and (4) is included on the list submitted for the applicable covered State under section 25F(g) for the applicable year. Section 25F(c)(3) defines a "qualified contribution" as a charitable contribution of cash to an SGO that uses the contribution to fund scholarships for eligible students (as defined in section 25F(c)(2)) solely within the covered State in which the SGO is listed pursuant to section 25F(g). Section 25F(c)(1) defines a "covered State" as "one of the States, or the District of Columbia," that, for a calendar year, voluntarily elects to participate under section 25F and to identify the SGOs located in the State, in accordance with section 25F(g). In order for a contribution made by a taxpayer to an organization in a covered State to be a qualified contribution eligible for a section 25F credit, among other requirements, section 25F requires the State to have identified the organization as an SGO that satisfies the requirements of section 25F(c)(5) for the applicable calendar year. Pursuant to section 70411(c)(1) of the OBBBA, the provisions of section 25F apply to taxable years ending after December 31, 2026.

[1] Unless otherwise indicated, all section references are to the Internal Revenue Code or the Treasury Regulations issued thereunder.

Additionally, for taxable years ending after December 31, 2026, section 139K, as added by section 70411(b) of the OBBBA, excludes from the gross income of individuals or their dependents any amounts received after December 31, 2026, pursuant to SGO-provided scholarships for qualified elementary or secondary education expenses of eligible students. *See* section 70411(c)(2) of the OBBBA.

**II. Amount of Section 25F Credit**

Section 25F(a) provides that an individual's credit against the tax imposed by chapter 1 for the taxable year is an amount equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year. Section 25F(b) provides that the amount of the section 25F credit allowed to a taxpayer for a taxable year is subject to a reduction and limitation. Section 25F(b)(2) provides that the amount allowed as a section 25F credit for a taxable year is reduced by the amount allowed as a credit on any State tax return of the taxpayer for qualified contributions made by the taxpayer during the taxable year. Section 25F(b)(1) provides that the amount of the section 25F credit allowed to any taxpayer for any taxable year may not exceed $1,700. In addition, section 25F(e) prohibits a double benefit to a taxpayer by providing that any qualified contribution for which a section 25F credit is allowed cannot be taken into account as a charitable contribution for purposes of section 170.

Section 25F(f) provides for the carryforward of unused section 25F credit amounts. Section 25F(f)(1) provides that, if the section 25F credit allowable for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under sections 21, 22, 24, 25, 25A, 25B, 25C, and 25E, such excess is carried to the succeeding taxable year and added to the credit allowable under section 25F(a) for such taxable year. However, section 25F(f)(2) provides that no credit may be carried forward under section 25F(f) to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For this purpose, section 25F(f) provides that section 25F credits are treated as used on a first-in, first-out basis.

**III. Requirements for Scholarship Granting Organizations**

An organization can qualify as an SGO only if it satisfies each requirement in section 25F(c)(5). Under section 25F(c)(5), the organization must:

(1) Be described in section 501(c)(3), be exempt from tax under section 501(a), and not be a private foundation;

(2) Prevent the co-mingling of qualified contributions with other amounts by maintaining one or more separate accounts exclusively for qualified contributions;

(3) Satisfy each of the requirements of section 25F(d); and

(4) Be included on the list submitted under section 25F(g) for the applicable year by the covered State in which the organization is located.

The requirements in section 25F(d) referred to in section 25F(c)(5)(C) that an SGO also must satisfy are as follows:

(1) Provide scholarships to 10 or more students who do not all attend the same school;

(2) Spend not less than 90 percent of its income on scholarships for eligible students (90 percent of income spending requirement);

(3) Provide scholarships only for qualified elementary or secondary education expenses described in section 530(b)(3)(A) (relating to Coverdell education savings accounts) of an eligible student;

(4) Provide scholarships to eligible students with a priority for:

(a) Students awarded a scholarship the previous school year, and thereafter;

(b) Any eligible students who have a sibling who was awarded a scholarship from such organization;

(5) Not earmark or set aside contributions for scholarships on behalf of any particular student;

(6) Verify the annual household income and family size of eligible students who apply for scholarships to ensure such students meet the area median gross income requirement of section 25F(c)(2)(A) (defining area median gross income "as such term is used in section 42"), and limit the awarding of scholarships to eligible students who are members of a household for which the income does not exceed the amount established under section 25F(c)(2)(A); and

(7) Not award a scholarship to any disqualified person, as determined pursuant to rules similar to the rules of section 4946 (relating to private foundations).

**IV. State List of Scholarship Granting Organizations**

Section 25F(g)(1)(A) provides that, not later than January 1 of each calendar year (or, with respect to the 2027 calendar year, as early as practicable), a State that voluntarily elects to participate under section 25F must provide to the Secretary a list of the SGOs that meet the requirements described in section 25F(c)(5) and are located in the State. A State's participation under section 25F allows SGOs located in the State and therefore included on the State SGO list to receive qualified contributions for which individuals may be eligible to claim a section 25F credit.

Section 25F(g)(1)(B) provides that the election under section 25F(g) must be made by the Governor of the State or by such other individual, agency, or entity as is designated under State law to make such elections on behalf of the State with respect to Federal tax benefits.

Section 25F(g)(2) provides that the State SGO list submitted under section 25F(g)(1)(A) must include a certification that the individual, agency, or entity submitting such list on behalf of the State has the authority to perform this function.

**V. Prior Guidance Relating to the Section 25F Credit**

The Treasury Department and the IRS have issued preliminary guidance with respect to the section 25F credit. On November 25, 2025, the Treasury Department and the IRS issued Notice 2025-70, 2025-50 I.R.B. 773, to request comments regarding issues arising under section 25F that should be addressed in guidance, including issues on which guidance is most quickly needed, such as issues relating to the annual certification by a State as well as SGO requirements.

On December 12, 2025, the Treasury Department and the IRS issued Rev. Proc. 2026-6, 2026-2 I.R.B. 314, to provide the exclusive procedure for a State to make an election during 2026 to be a "covered

State" prior to identifying SGOs in the State in accordance with section 25F(g).

**VI. Public Feedback Received**

The Treasury Department and the IRS have received feedback from taxpayers, tax professionals, and other stakeholders regarding section 25F, including feedback received in response to Notice 2025-70. These proposed regulations are informed by these responses. The major areas with respect to which public stakeholders provided feedback are discussed in the following Explanation of Provisions.

**Explanation of Provisions**

**I. Definitions**

Proposed § 1.25F-1(a) would provide definitions of terms generally applicable for purposes of applying section 25F and §§ 1.25F-0 through 1.25F-5 (section 25F regulations), including certain defined terms for which additional context is provided in this part of the Explanation of Provisions.

As noted in part IV of the Background section of this preamble, section 25F(g)(1)(A) states that an electing State must provide a list of the SGOs that meet the requirements described in section 25F(c)(5) and are located in the State. Many stakeholders suggested that "located in the State" should mean registered to do business in the State and in compliance with otherwise applicable State laws for nonprofit organizations. Some of these stakeholders stated that requiring physical headquarters or in-State staff would be unnecessary, inconsistent with existing State tax credit programs, and would significantly hinder effective multistate SGOs that are well-positioned to deliver scholarships at scale.

Other stakeholders stated that an SGO should be required to have a physical presence in the State if required by State law, arguing that "located in the State" straightforwardly means headquartered in the State, rather than simply being authorized or registered to solicit donations there. These stakeholders stated that the phrase "located in the State" appears in more than 90 sections of the U.S. Code and that none could be read to mean "authorized to operate." Many of these stakeholders expressed the concern that allowing large multistate SGOs to be located in a State where they did not have a physical presence might limit a State's ability to implement its educational policies.

Proposed § 1.25F-1(a)(10) would, for purposes of section 25F, define an organization as "located in a State" if the organization 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.[2] The Treasury Department and the IRS have determined that this definition is consistent with the legislative purpose of section 25F to increase access to scholarship funds.

Proposed § 1.25F-1(a)(12) would provide that a "qualified contribution" is a charitable cash contribution made by an individual to an SGO to the extent it is designated as such by the donor at the time of contribution. If the SGO provides any goods or services as consideration for any part of the contribution, then the value of those goods and services must be subtracted from the amount of the charitable contribution to arrive at the amount of the qualified contribution.

For this purpose, the term "cash" would mean physical currency, check, money order, electronic transfer (including, for example, by credit or debit card), after-tax payroll deduction, or other similar method, in each case all in U.S. dollars, but would not include any digital assets.

Under this proposed rule, the donor would be required to designate to the recipient SGO, at the time of making the contribution, that the contribution is intended to be a qualified contribution, which would require the SGO to deposit the contribution into the SGO's section 25F segregated account as part of the SGO's compliance with sections 25F(c)(3) and 25F(c)(5)(B) and proposed § 1.25F-3(b)(2) or (c)(3) (as applicable, for single-State SGOs and multistate SGOs, respectively). If the SGO is a multistate SGO, the donor would be able to direct the recipient SGO to allocate the qualified contribution to the multistate SGO's section 25F segregated account for any of the covered States on whose State SGO list the SGO appears. Once a qualified contribution has been deposited into an SGO's section 25F segregated account, the SGO must use the funds in accordance with the operational requirements in section 25F(d) and proposed § 1.25F-3(c) to maintain its status as an SGO.

In response to Notice 2025-70, stakeholders asked that SGOs be allowed to verify that scholarships are spent on qualified elementary or secondary education expenses by using a third-party vendor that verifies the expenses and prevents duplication, which stakeholders referred to as a digital wallet. These proposed regulations would allow the use of a qualified digital wallet to establish that the SGO verified that scholarships are spent on qualified elementary or secondary education expenses. Proposed § 1.25F-1(a)(13) would define a "qualified digital wallet" as an electronic payment platform in which a third-party provider provides a streamlined interface for managing the administration of section 25F scholarships by having eligible students and their families submit purchase requests, by tracking approved expenses, and by maintaining controls to ensure that all payments are made for qualified elementary or secondary education expenses by pre-approving vendors and paying vendors directly or requiring timely submission of receipts. The Treasury Department and the IRS request comments on this definition of qualified digital wallet and whether additional safe harbors for verification that scholarships are spent on qualified elementary or secondary education expenses should be included in the final regulations.

Section 25F(c)(4) provides that a "qualified elementary or secondary education expense" is any expense of an eligible student that is described in section 530(b)(3)(A), which describes such qualified expenses as being related to elementary or secondary school enrollment or attendance. Section 530(b)(3)(B) provides that the term "school" means any school that

[2] However, proposed § 1.25F-5(e)(2) would prohibit covered States from imposing requirements on SGOs that are more restrictive than the requirements in section 25F(c)(5).

provides elementary education or secondary education (kindergarten through grade 12), as determined under State law. In addition, section 25F(c)(2) states that an "eligible student" must, among other things, be eligible to enroll in a public elementary or secondary school, and section 25F(d) requires an SGO to provide scholarships to 10 or more students who do not all attend the same school.

Section 25F(c)(5) provides that a scholarship granting organization is any organization described in section 501(c)(3), exempt from tax under section 501(a), and not a private foundation, which prevents the co-mingling of qualified contributions with other amounts by maintaining one or more separate accounts exclusively for qualified contributions; satisfies each of the requirements of section 25F(d); and is included on the list submitted under section 25F(g) for a particular calendar year by the covered State in which the organization is located.

Proposed § 1.25F-1(a)(16) would provide that a "scholarship granting organization" or "SGO" is an organization as defined in section 25F(c)(5) and proposed § 1.25F-3(b). Accordingly, donations made to an organization that generates State tax credits may or may not give rise to a section 25F credit, depending on whether the organization separately satisfies the Federal tax law requirements to be an SGO for purposes of the section 25F credit. For example, a contribution to an organization that qualifies for State tax credits but is not included on the State SGO list, as would be defined in proposed § 1.25F-1(a)(24), of one or more covered States in which the SGO is located, does not give rise to the section 25F credit.

Notice 2025-70 recognized that organizations may fundraise and award scholarships in more than one State and distinguished an organization that is located in only one State (single-State organization) from one that is located in more than one State (multistate organization). The proposed regulations would continue this distinction in proposed § 1.25F-1(a)(20), defining a "single-State SGO" as an organization that is included on the State SGO list of only one covered State, and proposed § 1.25F-1(a)(11), defining a "multistate SGO" as an SGO that is included on the State SGO list of more than one covered State.

Although proposed § 1.25F-5(e)(2) would clarify that a State may not narrow the required elements of an SGO as described in section 25F(c)(5) and proposed § 1.25F-3(b) and (c), any particular SGO may narrow its own focus and adopt more stringent requirements than those applicable under section 25F. For example, an SGO may choose to limit its scholarships for qualified elementary and secondary education expenses to specific subject matter areas such as science or foreign languages, or to students whose household income is less than 80 percent of the area median gross income, provided that the SGO meets the statutory and regulatory requirements for SGOs. The Treasury Department and the IRS assume that SGOs will publicize their particular missions, the scope of their scholarships for eligible students, and their successes in achieving better student outcomes in order to attract more qualified contributions from taxpayers supportive of their mission.

Stakeholders requested clarification regarding the meaning of the term "school" for purposes of section 25F. Section 25F does not define the term "school" or separately cross-reference the definition in section 530(b)(3)(B). Section 25F(c)(4), however, defines a "qualified elementary or secondary education expense" as any expense of an eligible student that is described in section 530(b)(3)(A). Each of the three categories of expenses described in section 530(b)(3)(A) depends on the student's enrollment or attendance at, or otherwise being in, a school. For purposes of section 530(b)(3), section 530(b)(3)(B) defines "school" as any school that provides elementary education or secondary education (kindergarten through grade 12), as determined under state law. Accordingly, the definition in section 530(b)(3)(B) applies in determining whether an expense is described in section 530(b)(3)(A) and therefore is a qualified elementary or secondary education expense under section 25F(c)(4).

Section 25F(d)(1)(A) also uses the term "school" in requiring an SGO to provide scholarships to 10 or more students who do not all attend the same school. To provide a consistent rule for purposes of both section 25F(c)(4) and section 25F(d)(1)(A), these proposed regulations provide that the term "school" has the meaning given in section 530(b)(3)(B).

The requirement in section 25F(c)(2)(B) that an eligible student be eligible to enroll in a public elementary or secondary school is distinct from the requirement that an SGO provide scholarships only for qualified elementary or secondary education expenses. The definition of eligible student does not itself require that the student be enrolled in or attending a school at the time of the scholarship application or award. However, an expense is a qualified elementary or secondary education expense only if it satisfies section 530(b)(3)(A), including the applicable connection to a school described in section 530(b)(3)(B). For example, a student who is eligible to enroll in a public school may receive a scholarship during the summer before the school year begins and incur qualified elementary or secondary education expenses in connection with enrollment in a school later that year.

The Treasury Department and the IRS have received many comments requesting guidance under section 530(b)(3) that will clarify the meaning of qualified expenses and schools and intend to issue that guidance as soon as possible so that taxpayers may rely on it.

## II. Federal Scholarship Tax Credit for Qualified Contributions

### *A. In general*

Generally, an individual taxpayer who is a United States citizen or a resident of the United States (as would be defined in proposed § 1.25F-1(a)(15)) is allowed a nonrefundable credit against the tax imposed for the taxable year by sections 1 and 55(a) for qualified contributions made by the taxpayer to an SGO during that taxable year. The amount of the credit allowed for a taxable year generally is equal to the aggregate amount of qualified contributions made by the taxpayer during any period of that taxable year in which the taxpayer is a United States citizen or resident of the United States, reduced (but not below zero) by the amount of any State credits claimed for such qualified contributions, and subject to a cap

of $1,700. As a nonrefundable credit, the section 25F credit claimed in a particular year cannot exceed the tax liability of the individual taxpayer for that year. Any unused credit may be carried forward for up to five years. In addition, any qualified contribution for which a credit is allowed under section 25F may not be taken into account as a charitable contribution for purposes of section 170.

In making a contribution to claim a credit under section 25F, a taxpayer may contribute to any SGO without regard to the taxpayer's residence and may rely on the donee organization's presence on the IRS SGO list (and not listed as removed from that list) at the time of the contribution to establish that the organization is an SGO, regardless of which covered States included the organization on their respective State SGO lists. For example, a taxpayer residing in State X may contribute to an SGO in State Y so long as the SGO is on State Y's SGO list. *See* proposed § 1.25F-2(b), described in part II.E. of this Explanation of Provisions.

*B. Meaning of the word "taxpayer" in section 25F(a) and (b)*

Section 25F(a) provides that an "individual" who is a citizen or resident of the United States may claim a credit based on an amount equal to the aggregate amount of qualified contributions "made by the taxpayer." Section 25F(b) further provides that (1) the section 25F credit allowed to "any taxpayer" for any taxable year "shall not exceed $1,700" and (2) the amount of the allowed section 25F credit "shall be reduced by the amount allowed as a credit on any State tax return of the taxpayer for qualified contributions made by the taxpayer during the taxable year."

*C. Married taxpayers filing jointly*

A significant number of stakeholders requested that the term "taxpayer" in section 25F(a) and (b) be applied separately to each spouse filing a joint return, which the stakeholders asserted would allow a married couple a combined section 25F credit of up to $3,400 on a joint return.

These stakeholders observed that the Code and regulations thereunder have long recognized that a joint return consists of two taxpayers, absent express statutory language to the contrary. Generally, the Code specifies whether a dollar limitation for a credit or deduction differs based on filing status. *See, e.g.*, sections 22(c) (specifying credit amounts for single individuals, joint filers, and married taxpayers filing separately), 36(b)(1) (providing a first-time homebuyer credit of up to $8,000 or $4,000 for married taxpayers filing separately), and 164(h)(6)(B) (2018) (limiting the deduction for State and local taxes to $10,000 or $5,000 for married filing separately). However, the Code does not always provide for a dollar limitation based on filing status. Moreover, the term taxpayer for purposes of the Code is defined as "any person subject to any internal revenue tax," and person is defined to include "an individual." Section 7701(a)(1) and (14).

The Treasury Department and the IRS interpret section 25F to limit the credit amount that may be claimed to $1,700 per individual taxpayer, allowing married couples filing jointly to potentially claim up to $3,400 on their joint tax return provided that each spouse has made qualified contributions of up to $1,700. This interpretation is consistent with other instances in which a joint return is treated as consisting of two individual taxpayers. *See, e.g.*, Treas. Reg. § 1.151-1(b) ("Since, in the case of a joint return, there are two taxpayers (although under section 6013 there is only one income for the two taxpayers on such return, i.e., their aggregate income), two exemptions are allowed on such return, one for each taxpayer spouse."); § 1.6013-4(b) ("Although there are two taxpayers on a joint return, there is only one taxable income."). The statutory language of "any taxpayer" without any limitation in section 25F also implies the broadest interpretation and is consistent with how the term taxpayer is defined in section 7701(a).

*D. Contributions from partnerships and S corporations*

The Treasury Department and the IRS interpret the language of section 25F(a) to limit the section 25F credit to individuals making qualified contributions directly to one or more SGOs, rather than through one or more entities. The language used in section 25F(a), including the references to both "individual" and later "taxpayer," is consistent with the language used in other individual income tax credit provisions in the Code and does not mean that the person making the qualified contribution is intended to differ from the person claiming the credit. *See* sections 23(a)(1), 25C(a), and 25D(a). This interpretation is consistent with the purpose of section 25F, which is to provide a credit for qualified contributions made by individuals. Thus, proposed § 1.25F-2(a)(3) would provide that, although a partnership or S corporation's contribution to an SGO may be treated as a separately stated charitable contribution under section 170 and deductible under section 170 by the partner or S corporation shareholder, that contribution is not a qualified contribution made by the partner or S corporation shareholder for purposes of section 25F. Therefore, a partner may not take into account such partner's distributive share of the partnership's charitable contributions to an SGO in determining the amount of the partner's qualified contributions under section 25F. Similarly, a shareholder of an S corporation may not take into account such shareholder's pro rata share of the S corporation's charitable contributions to an SGO in determining the amount of the shareholder's qualified contributions under section 25F.

*E. Reliance on SGO status*

Section 25F(c)(3) requires a qualified contribution to be, among other things, made to a "scholarship granting organization." Proposed § 1.25F-2(b) would establish a reliance rule, providing that, in order to ensure that a taxpayer's contribution is being made to an SGO, the taxpayer generally may rely on the IRS SGO list at the time the qualified contribution is made. However, to prevent situations in which a taxpayer could abuse this grant of reliance, proposed § 1.25F-2(b) also would provide that such reliance is not available to a taxpayer if the taxpayer (1) had knowledge that the recipient organization did not satisfy the requirements of section 25F(c)(5) and § 1.25F-3(b) at the time of the contribution; or (2) was at least in part responsible for, or was aware of, the act, the failure to act, or the substantial and

material change on the part of the organization that gave rise to the removal of the organization from the IRS SGO list after the date of the taxpayer's contribution.

*F. Calculation of the section 25F credit*

Section 25F(b) limits the section 25F credit allowed by both the amount allowed as a credit on any State tax return of the taxpayer for qualified contributions made by the taxpayer during the taxable year and by a $1,700 annual limitation.

Many stakeholders requested guidance on how to apply the reduction for the amount allowed as a State tax credit for such contributions. Stakeholders identified various possible options, including requiring taxpayers to make separate contributions for State and Federal credits. Some stakeholders requested that taxpayers be allowed to take advantage of both State and Federal tax credits in a way that would not reduce the benefit of either credit.

Section 25F(a) describes the taxpayer's credit allowed as the total "amount of qualified contributions made by the taxpayer during the taxable year," before the application of any limitations under section 25F(b). Although the statute includes the $1,700 limitation in section 25F(b)(1) and the State credit reduction in section 25F(b)(2), the Treasury Department and the IRS do not interpret this ordering of the provisions as reflecting an intent to apply the $1,700 limitation to the amount of a taxpayer's qualified contributions before application of the State credit reduction. Such an interpretation would, for example, limit a taxpayer's section 25F credit for a $2,500 qualified contribution for which the taxpayer claims a $500 State credit to $1,200 (that is, $1,700 in creditable qualified contributions after application of the section 25F(b)(1) limitation less the $500 State credit after the subsequent application of the State credit reduction in section 25F(b)(2)).

The Treasury Department and the IRS view the State credit reduction as intended to prevent a taxpayer from receiving combined Federal and State tax benefits exceeding the value of the taxpayer's qualified contributions. It is not otherwise intended to limit the section 25F credit for taxpayers in States that currently provide State credits for their qualified contributions, which would discourage those States from continuing to provide a State tax incentive that would significantly reduce an available Federal tax incentive. Because the Treasury Department and the IRS interpret section 25F(b) as limiting the credit to $1,700 only after applying the State credit reduction, proposed § 1.25F-2(a) and (c)(1) would clarify that the amount of the taxpayer's qualified contributions is reduced by the amount of State credits for such qualified contributions before applying the $1,700 limitation.

Proposed § 1.25F-2(c)(1) would provide that the section 25F credit for qualified contributions is the lesser of the following two amounts:

(1) The aggregate amount of the taxpayer's qualified contributions for the taxable year made while the taxpayer was a United States citizen or a resident of the United States reduced (but not to below zero) by the sum of any State credits with regard to those qualified contributions; or

(2) $1,700.

In general, the following steps would be performed to calculate a taxpayer's section 25F credit: first, the taxpayer determines the aggregate amount of the taxpayer's qualified contributions for the taxable year; second, subtract from that amount the sum of any State credits that were allowed with regard to those qualified contributions; and third, determine the lesser of $1,700 or the amount computed in the second step. In computing the State credits in the second step described in the preceding sentence, only the credits allowed based on qualified contributions would be taken into account; any credit allowed for a contribution that is not a qualified contribution would not be taken into account.

Because a taxpayer may be allowed a State credit for a contribution that includes both a qualified contribution and an amount that is not designated as a qualified contribution, proposed § 1.25F-2(c)(2) would provide that, for purposes of that second step, a State credit is treated as being allowed first from the donor's contributions that are not qualified contributions, and only thereafter from the donor's qualified contributions. This ordering rule preserves the maximum amount of qualified contributions available for a section 25F credit.

Because proposed § 1.25F-1(a)(22) would define a State credit as any tax credit offered by a State for making a contribution to an SGO that is allowed (as defined in §1.25F-1(a)(22)) on the taxpayer's State tax return, the allowance of a deduction (as opposed to a credit) for State income tax purposes generally would not affect the amount of the section 25F credit.

Although section 25F(e) and proposed § 1.25F-2(f) provide that a qualified contribution for which a credit is allowed under section 25F may not be taken into account as a charitable contribution for purposes of section 170, the portion of a qualified contribution not taken into account in determining the section 25F credit may be deductible as a charitable contribution if such contribution meets the requirements of section 170 and the regulations thereunder.

*G. Tax liability limitation*

Section 25F(a) provides that the section 25F credit is allowed against "the tax imposed by this chapter for the taxable year," and section 25F(f) clarifies that the credit allowable for any taxable year may not exceed the limitation imposed by section 26(a) for such taxable year, reduced by the sum of the credits allowable under subpart A (other than sections 25F, 23, and 25D).

Proposed § 1.25F-2(d) would clarify that the credit allowed under section 25F for a taxable year may not exceed the taxpayer's tax liability as defined in section 26(a), based on the tax imposed for such taxable year as reduced by the sum of the nonrefundable personal credits that may not be carried forward (specifically, the credits allowed under sections 21, 22, 24, 25, 25A, 25B, 25C, and 25E).

*H. Carryforward of unused credits*

Similar to sections 23(c) (adoption credit carryforward) and 25D(c) (residential clean energy credit carryforward), section 25F(f) provides for a carryforward of the unused section 25F credit to enable taxpayers to claim the unused section 25F credit against a future tax liability.

Although a taxpayer cannot claim a section 25F credit of more than $1,700 for any taxable year, the cumulative amount of section 25F(f) credit carryforwards can be used against a tax liability of more than $1,700 for a single taxable year. *See* proposed § 1.25F-2(h)(*Example 5*).

Proposed § 1.25F-2(e) would provide rules on the application of this carryforward provision, including a prohibition on carrying forward any credit to a taxable year following the fifth taxable year after the taxable year in which the credit arose. This provision also would provide that credits carried forward to a taxable year would be used on a first-in, first-out basis and would be used prior to current year credits.

*I. Reporting and substantiation of qualified contributions*

Section 25F(h) provides that the Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of section 25F, including with respect to recordkeeping or information reporting for purposes of administering the requirements of section 25F.

Notice 2025-70 solicited comments regarding reporting and recordkeeping requirements for SGOs, including requirements relating to qualified contributions. In response, stakeholders and commenters asked that SGOs be required to provide electronically a written statement to the donor about the contribution. Moreover, several expressed concerns with collecting and reporting a donor's taxpayer identification number (TIN). The Treasury Department and the IRS share the stakeholders' concern that requiring taxpayers to provide TINs to SGOs when making a qualified contribution would be burdensome, could chill an individual's desire to make contributions to an SGO, and might result in unnecessary exposure of sensitive taxpayer information. At the same time, the ability to match contribution information provided by SGOs with that provided by individual taxpayers is important both to ensure effective administration of the section 25F credit and to facilitate the States' monitoring of SGO compliance with the operational requirements under section 25F(d) and § 1.25F-3(c), including the 90 percent of income spending requirement.

Thus, proposed § 1.25F-4(c)(1), also discussed in part IV.C. of this Explanation of Provisions, would provide special rules relating to the reporting of qualified contributions to SGOs that would include the use of a unique donor number provided by the SGO. Proposed § 1.25F-4(c)(1) would require an SGO to generate a unique donor number and to provide it to the donor as part of a timely written acknowledgement no later than January 31 of the calendar year following the calendar year in which the donor made a qualified contribution to the SGO. Because each SGO will be generating its own unique donor numbers, a taxpayer making qualified contributions to more than one SGO would receive a different donor number from each SGO. Proposed § 1.25F-2(g)(1) would require a taxpayer who is attempting to claim a section 25F credit to substantiate the taxpayer's credit on Form 8525, *Federal Scholarship Tax Credit* (or successor form), by reporting such information as may be required in the form instructions, including, for each SGO to which the taxpayer has made a qualified contribution during the taxable year, the unique donor number that the SGO was required to provide as part of a timely written acknowledgement.

If the taxpayer fails to report the required unique donor number on the taxpayer's Form 8525, *Federal Scholarship Tax Credit* (or successor form), proposed § 1.25F-2(g)(2) would create a presumption that the taxpayer did not make a qualified contribution to that SGO. However, this presumption may be rebutted by the taxpayer's submission of the timely written acknowledgement from the SGO that includes such unique donor number or other evidence satisfactory to the Commissioner of the amount of the contribution(s) from the taxpayer and the fact that the contributions were designated as qualified contributions, all within the response time prescribed in a written request from the IRS.

*J. Examples*

Many stakeholders requested that the proposed regulations provide examples of the calculation of the section 25F credit. Proposed § 1.25F-2(h) would provide five such examples.

## III. Scholarship Granting Organizations

*A. Overview*

Section 25F(c)(5) defines the term "scholarship granting organization" and requires compliance with the operational requirements in section 25F(d). Proposed § 1.25F-3(a) would provide a roadmap for the rules in proposed § 1.25F-3; proposed § 1.25F-3(b) would define the term SGO; proposed § 1.25F-3(c) would provide operational requirements for SGOs; and proposed § 1.25F-3(d) would define disqualified persons with respect to an SGO.

*B. Definition of scholarship granting organization*

As provided in section 25F, proposed § 1.25F-3(b) would define a "scholarship granting organization" as an organization that: (1) is described in section 501(c)(3), is exempt from tax under section 501(a), and not a private foundation, as defined in section 509(a);[3] (2) prevents the co-mingling of qualified contributions with other amounts by maintaining a section 25F segregated account; (3) satisfies the operational requirements of section 25F(d)(1) and proposed § 1.25F-3(c); (4) does not award scholarships to any disqualified person; (5) is included on the State SGO list of one or more covered States in which the SGO is located; and (6) satisfies the reporting and recordkeeping requirements in § 1.25F-4.

Proposed § 1.25F-3(b)(2) would require each SGO to prevent the co-mingling of qualified contributions with other amounts by depositing all qualified contributions into a section 25F segregated account and would require the SGO to maintain a complete set of books and records for the section 25F segregated

[3] One way to search such organizations is the Tax Exempt Organization Search Tool on the IRS website at *https://www.irs.gov/charities-non-profits/search-for-tax-exempt-organizations*.

account. A contribution designated by a donor as a qualified contribution would need to be deposited in this section 25F segregated account regardless of whether the donor ultimately receives a tax credit for the qualified contribution. Once a qualified contribution is designated as such by a donor, neither the donor nor the recipient organization would be permitted to revoke such designation to reduce administrative burden and provide certainty.

*C. Operational requirements for scholarship granting organizations*

Proposed § 1.25F-3(c)(1) would provide operational requirements for SGOs, proposed § 1.25F-3(c)(2) would provide a safe harbor for a single-State SGO whose activities are 85 percent scholarship granting activities (operational requirement safe harbor), and proposed § 1.25F-3(c)(3) would provide the operational requirements that multistate SGOs would need to satisfy.

Proposed § 1.25F-3(c)(1) would provide that the organization would need to: (1) provide scholarships to 10 or more students who do not all attend the same school; (2) satisfy the 90 percent of income spending requirement described in part III.D of this Explanation of Provisions; (3) verify that scholarships are used solely for qualified elementary or secondary education expenses; (4) verify that scholarships are awarded only to eligible students; (5) verify that the recipient eligible students are solely within the State; (6) award scholarships with a priority for eligible students awarded a scholarship for the previous school year and, thereafter, for any eligible students who have a sibling who was awarded a scholarship from such SGO; and (7) not earmark or set aside contributions for scholarships on behalf of any particular student.

Proposed § 1.25F-3(c)(2) would provide an operational requirement safe harbor. If at least 85 percent of a single-State SGO's activities consist of scholarship granting activities (whether pursuant to section 25F, in accordance with State tax credit scholarship rules, or any other scholarship granting activities), then the SGO may apply the operational requirements to the organization's section 25F segregated account, rather than to the organization as a whole. For example, for a single-State SGO using the operational requirement safe harbor, the requirement that an SGO verify that scholarships are used solely for qualified elementary and secondary education expenses would apply only to scholarships granted with funds disbursed from the SGO's section 25F segregated account.

For purposes of this activity test, administrative, fundraising, governance, investment, compliance, outreach, and other activities are treated as scholarship granting activities to the extent each such activity is conducted in support of scholarship granting activities. This activity test, applied to the organization as a whole, is intended to measure the organization's mission and purpose, and is separate from the 90 percent of income spending requirement, for which only expenditures on scholarships for eligible students are taken into account.

While section 25F(b)(2) contemplates that an SGO may be conducting activities giving rise to a State credit for qualified contributions received during the taxable year, section 25F(d) contemplates that an SGO meets the operational requirements organization-wide. To allow SGOs to conduct section 25F scholarship activities alongside State scholarship activities giving rise to a State credit, and to allow SGOs to raise funds for administrative costs that would not count toward the 90 percent of income spending requirement, the operational requirement safe harbor would be a narrow administrative accommodation for organizations whose overall operations overwhelmingly consist of granting scholarships.

If at least 85 percent of the organization's activities are scholarship granting activities, then the organization's overall mission and operations would be considered aligned with the statutory scholarship purpose behind the section 25F credit. The operational requirement safe harbor would be limited to organizations whose activities are at least 85 percent scholarship granting activities because, for organizations with more than 15 percent of non-scholarship activities, the section 25F segregated account would not be a reliable proxy for the statutory phrase "organization." The Treasury Department and the IRS have determined that such a result would be inconsistent with section 25F(d)(1), which applies the SGO requirements at the organization level.

Recognizing that the proposed operational requirement safe harbor may require the formation of new organizations to conduct section 25F activities, these proposed regulations provide relief for tax-exempt entities whose exempt status is pending with the IRS, as discussed in part V.D. of this Explanation of Provisions.

Proposed § 1.25F-3(c)(3) would provide operational requirements for multistate SGOs. Because section 25F(c)(5)(B) requires an SGO to maintain one or more separate accounts exclusively for qualified contributions, a multistate SGO would be required to maintain a separate section 25F segregated account for each covered State on whose State SGO list the organization appears, and would need to meet the requirements of proposed § 1.25F-3(c)(1) separately for its section 25F segregated account for each covered State on whose State SGO list the SGO appears. The SGO must allow donors to designate how their qualified contribution should be allocated among one or more of the covered States on whose State SGO list the SGO appears and all qualified contributions must be deposited in accordance with donor designations. Consistent with the intent of the statute that the organization be a scholarship granting organization, at least 85 percent of a multistate SGO's activities would be required to be scholarship granting activities.

The Treasury Department and the IRS request comments as to whether further guidance is needed regarding how an organization measures its scholarship-granting activities, including whether the determination should be based on receipts, expenditures, staff time, program-service activity, or another administrable metric, as well as whether 85 percent is a reasonable threshold to ensure that the organization's overall mission and operations are aligned with the statutory scholarship purpose behind the section 25F credit.

*D. 90 percent of income spending requirement*

Section 25F(d)(1)(B) provides that an SGO must spend not less than 90 percent

of "the income of the organization" on scholarships for eligible students.

*1. Definition of income*

Many stakeholders advocated that the term "income of the organization" apply only to qualified contributions, citing concerns that an SGO might not be able to operate if its overhead was limited to 10 percent of the organization's entire income.

The Treasury Department and the IRS have determined that the best reading of the statutory term "income of the organization" is the total gross receipts of the organization from all sources, computed using the cash receipts and disbursements method of accounting during its annual accounting period, unreduced by any expenses, regardless of the overall method used by the organization in its books and records, and proposed § 1.25F-3(c)(4)(ii)(A) would adopt this definition. The separate account requirement found in section 25F(c)(5)(B) is a tracing and anti-commingling rule for qualified contributions; it does not limit the income denominator in section 25F(d)(1)(B) to qualified contributions or earnings on those contributions.

However, in response to stakeholder concerns, and consistent with the purpose of section 25F that an SGO should be using the vast majority of its income for awarding scholarships, proposed § 1.25F-3(c)(4)(ii)(B) would provide that, for a single-State SGO using the operational requirement safe harbor, income of the organization, for purposes of the spending requirement, means the total amount of qualified contributions received by, and earnings credited to, the section 25F segregated account during the taxable year. For a multistate SGO, income of the organization, for purposes of this spending requirement, means the total amount of qualified contributions received by, and earnings credited to, the section 25F segregated account during the taxable year and is determined separately for each section 25F segregated account in each covered State.

*2. Timing of 90 percent of income spending requirement*

Stakeholders noted that the statute does not provide a timeframe for this spending requirement and asked that the proposed regulations provide that the income may be spent over more than one year. Stakeholders said that the 90 percent rule may pose a challenge for SGOs in the startup phase, as many administrative costs will be fixed. Stakeholders also pointed out that, although the SGO list is based on a calendar year, many SGOs operate on a fiscal year. Some stakeholders suggested permitting timely spending to occur during the "current or next fiscal year" of the nonprofit entity; be calculated on a rolling average; or be subject to a phase-in period to accommodate start-up costs. Other stakeholders stated that regulations should not provide special accommodation for income or expense fluctuations, including start-up costs or multi-year smoothing.

In response to this feedback, proposed § 1.25F-3(c)(4)(iii)(A) would require an organization to meet the 90 percent of income spending requirement as of the last day of the taxable year following the taxable year in which such income is received. Thus, although the 90 percent of income spending requirement ultimately would need to be met for an SGO's first year of operation, that requirement may be satisfied, from a timing perspective, by the end of the SGO's second year of operation.

3. *Accounting for the 90 percent of income spending requirement*

To simplify calculations and increase administrative efficiency, proposed § 1.25F-3(c)(4)(iii)(B) would provide that amounts are treated as spent when paid under the cash method of accounting.

Given this cash method of accounting requirement, funds allocated for future disbursements (for example, multi-year scholarships) would not be considered "spent" until they are paid. Thus, any award for a future year would only count toward satisfaction of the 90 percent of income spending requirement for the year in which it is paid. This is consistent with the annual accounting and eligibility principles reflected in the statutory requirements of section 25F, including the requirement that the SGO determine the "annual" household income and family size of eligible students and that the scholarship recipient be an eligible student located in the State, in each case as of the time when the scholarship is paid.

Further, provided an SGO does not retain ownership of funds transferred to a third party for disbursement through a qualified digital wallet, the SGO will be treated as having spent the transferred funds as of the date of transfer for purposes of the 90 percent of income spending requirement.

Proposed § 1.25F-3(c)(4)(iii)(C) would provide that amounts are treated as paid from contributions and other income received in the earliest year first, and then from subsequent years in chronological order; and proposed § 1.25F-3(c)(4)(iii)(D) would provide that, if an SGO receives a return of any payments made to a school or vendor that are in excess of the student's costs or that were disbursed in error, the return would be treated as income received in the year of the return and would need to be spent by the end of the taxable year following the year of the return.

Finally, proposed § 1.25F-3(c)(4)(iii)(E) would provide that in no event would any amount spent by an SGO be treated as spent in more than one year.

*E. Verification that scholarships are used solely for qualified elementary or secondary education expenses*

Many stakeholders noted that waste, fraud, and abuse have been found in some existing State-level scholarship credit programs and said that States need to be able to implement safeguards designed to prevent, identify, and address such behaviors. Stakeholders stated that the primary sources of fraud and abuse in existing scholarship programs are the awarding of more than one scholarship to the same student for the same qualified elementary or secondary education expense if the total of the awards exceeds the expense and the misuse of scholarships for unqualified expenses or for extravagant expenses that are only nominally related to the student's educational needs.

Accordingly, proposed § 1.25F-3(c)(5) would require SGOs to implement reasonable procedures for the prevention and detection of fraud and abuse, including systems to prevent and detect the duplica-

tion of scholarship awards to the same student for the same qualified elementary or secondary education expense. In addition, proposed § 1.25F-3(c)(5) would require an SGO to verify that scholarship funds are used exclusively for qualified elementary or secondary education expenses in accordance with the allowable methods of payment described in proposed § 1.25F-3(c)(5)(ii) through (v).

First, proposed § 1.25F-3(c)(5)(ii) would provide that no money may be paid to the family of the eligible student other than as qualified reimbursements. A qualified reimbursement would be a reimbursement of an expense for which the family of the eligible student provides a receipt, and the SGO verifies that the payment was made, that the expense is a qualified elementary or secondary education expense, and that the reimbursement satisfies the SGO's procedures to prevent a single expense from being reimbursed for more than the total cost by more than one source.

Proposed § 1.25F-3(c)(5)(iii) would require that tuition, fees, room and board, and other similar expenses described in section 530(b)(3)(A) that are charged by the school must be paid directly to the school. Proposed § 1.25F-3(c)(5)(iii) would further require the SGO to require the school to return any payments from the SGO that are in excess of the student's costs, or that are disbursed by the SGO in error.

Proposed § 1.25F-3(c)(5)(iv) would allow an SGO to pay other vendors directly if the vendor has been verified as an appropriate provider of such services or items; is not related, directly or indirectly, to the scholarship recipient; and is required to return any payments from the SGO that are in excess of the student's costs or that were disbursed by the SGO in error.

Proposed § 1.25F-3(c)(5)(v) would allow an SGO to use a "qualified digital wallet," as defined in proposed § 1.25F-1(a)(13), to pay qualified elementary or secondary education expenses.

The Treasury Department and the IRS note that section 25F(c)(5)(A) requires that an SGO must be a public charity under section 501(c)(3) (section 501(c)(3) public charity); therefore, scholarships provided by an SGO must further exempt purposes. Section 25F(c)(4) defines a qualified elementary or secondary education expense as any expense of an eligible student that is described in section 530(b)(3)(A), providing the outer boundaries of qualified expenses; however an SGO must award scholarships only for those expenses that are reasonably necessary to further the organization's charitable exempt purposes.

In addition, an organization is not described in section 501(c)(3) if it provides goods or services that confer more than incidental private benefit or otherwise exceed what is reasonably necessary to accomplish those purposes. For example, Rev. Rul. 69-175, 1969-1 C.B. 149, concluded that a nonprofit organization, formed by parents of pupils attending a private school that provides school bus transportation for its members' children, serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3).

Section 501(c)(3) organizations that make distributions of their funds to individuals must establish that such distributions are made on a true charitable basis in furtherance of the purposes for which they are organized. *See*, *e.g.*, Rev. Rul. 56-304, 1956-2 C.B. 306. In the context of private foundation scholarships, § 53.4945-4(c) requires grant procedures that are reasonably calculated to ensure the funds are used for the intended charitable purpose and tie scholarship expenditures to the purpose of the grant. In the context of private foundation grants under an employer-related scholarship program, Rev. Proc. 76-47 provides that a scholarship must be motivated by a disinterested educational purpose, not by private or business interests.

The Treasury Department and the IRS request comments on how section 501(c)(3) requirements interact with section 25F and whether any clarifications are needed in the final regulations.

Multiple stakeholders requested clarification regarding the scope of the category of education expenses allowed to be paid for with scholarships provided from qualified contributions to SGOs, and they offered many suggestions of the types of expenses that would be beneficial to eligible students. Section 25F defines these permissible expenses by reference to qualified elementary or secondary education expenses as described in section 530(b)(3)(A). The Treasury Department and the IRS recognize that guidance describing the types of expenses permitted is critical to States, SGOs, eligible students, and other stakeholders. Such guidance will be issued separately under section 530. As indicated previously, the Treasury Department and the IRS are working on the development of that guidance and are treating the issuance of that guidance as a high priority.

*F. Method of verifying that a student's household income is not greater than 300 percent of area median gross income*

Section 25F(d)(1)(F) requires an SGO to verify the annual household income of eligible students who apply for scholarships. This includes verifying that the student is an individual who is a member of a household with an income that, for the calendar year prior to the date of the application for a scholarship, is not greater than 300 percent of the area median gross income.

Many stakeholders addressed how income should be measured for these purposes. One stakeholder suggested that the forthcoming regulations clarify the relevant timeframe for measuring the student's household income. Some stakeholders suggested using information reported on Form 1040 and identifying members of the student's household based on who claims the eligible student as a dependent. Other stakeholders expressed concern with using section 42, the statutory provision for determining the Federal low-income housing credit, for determining income and family size because the section 42 definition encompasses all individuals who might be living in the same residence, including multiple generations of a family or unrelated individuals living together in the same location. Moreover, certain stakeholders suggested allowing SGOs to rely on eligibility determinations from other means-tested, public assistance programs. Other stakeholders suggested allowing SGOs to rely on a combination of tax returns, wage statements, and similar information in order to verify student eligibility.

In defining an eligible student, section 25F(c)(2)(A) incorporates the term "area

median gross income (as such term is used in section 42)." Proposed § 1.25F-3(c)(6) would define area median gross income in a manner consistent with the rules applicable to section 42. Additionally, these proposed rules would define household income based on the rules applicable to section 42, but with a slight modification as explained in part III.F.1 of this Explanation of Provisions. Under section 42(g)(4), the rules in section 142(d)(2)(B) are applicable to these income determinations. Section 142(d)(2)(B)(i) then refers to Section 8 of the United States Housing Act of 1937 (Public Law 75-896) for determinations of annual income and area median gross income. Accordingly, proposed § 1.25F-3(c)(6) would require determining area median gross income and household income in a manner that generally is consistent with determinations under Section 8, including adjustments for family size. To assist SGOs in verification of household income, the IRS anticipates publishing the applicable limitations by geographic area and family size annually in guidance published in the Internal Revenue Bulletin.

Stakeholders asked that the proposed regulations clarify that an SGO is not required to give scholarships to students in a household with income up to 300 percent of area median gross income. The statute allows an SGO to give scholarships up to that income limit, but an SGO may focus on students below that limit. For example, an SGO that limits scholarships to students that are members of households with an income not greater than 50% of area median gross income, and that otherwise meets all the requirements under section 25F to be an eligible SGO, would be an eligible SGO for purposes of section 25F.

*1. Household income*

The regulations issued by the Department of Housing and Urban Development relating to Section 8 are found in 24 CFR part 5. The definition of "household income" used in 24 CFR 5.609 is broader than the Federal tax definition of "income" and includes items such as child support, alimony received, and the imputed returns on assets (based on the current passbook savings rate) if the value of a family's net assets exceeds $50,000 and the actual returns from a given asset cannot be calculated. Thus, the definition includes certain items not received in the form of cash, including unrealized appreciation in a home.

Although this Section 8 definition forms the basis of the definition in the proposed regulations to determine the income limit specified in section 25F(c)(2)(A), in the interest of sound Federal tax administration, the proposed regulations would modify this definition for purposes of measuring a particular household's income against the 300 percent statutory limit. Specifically, in determining the household income of an eligible student, the proposed regulations would disregard items not received in cash by a member of the household because such items are unlikely to be documented and verifiable. The proposed regulations, therefore, would disregard the amount of a Section 8 housing allowance, any imputed return on assets, and other items not received in cash. The Treasury Department and the IRS have proposed this approach after consideration of the purpose of section 25F and the fact that approximately 95 percent of the children in the United States are in households with income below the 300 percent of area median gross income limit provided in section 25F(c)(2)(A). This proposed definition of a particular household's income would be expected to simplify the income verification process for families and SGOs by disregarding non-cash items (such as imputed returns on home equity) that generally would not be shown on any tax or financial documents and may be dependent on current valuations.

*2. Household*

The Section 8 regulations at 24 CFR 5.100 define the term "household" as "family, foster children and adults, and PHA-approved live-in aide." This definition then refers to 24 CFR 5.403 for the definition of "family," which focuses on who is living together; it could be a single person or "a group of persons residing together." Accordingly, for purposes of proposed § 1.25F-3(c)(6), proposed § 1.25F-1(a)(4)(iii) would define "household" as including the individual seeking to be an eligible student and the group of persons residing with that individual.

For purposes of determining the number of members of the student's household in situations in which the student resides in more than one household during the year (for example, in cases of shared custody), proposed § 1.25F-3(c)(6)(ii)(B) would identify the relevant household as the one in which the student resides for the longest period of time during the year. If the time spent by the student in each residence is equal, then the household of the taxpayer with the highest household income would be the relevant household for purposes of section 25F.

*3. Verification of household income*

For purposes of verifying that a scholarship recipient satisfies the household income requirement, proposed § 1.25F-3(c)(6) would require SGOs to use either the direct income verification method, the categorical eligibility verification method, or one of two safe harbors: the low-income-area tutoring and special-needs safe harbor, and the foster-child safe harbor. The categorical eligibility method, the low-income-area tutoring and special-needs safe harbor, and the foster-child safe harbor are intended to reduce burdens for families and SGOs by not requiring SGOs to collect more sensitive household-income information than is necessary if other reliable indicators of household income are present, while including administrable documentation and audit safeguards that will allow for the appropriate administration of section 25F.

Under the direct income verification method, an SGO would verify income through review of written documentation provided by scholarship applicants, including pay stubs, prior year Federal or State tax returns, IRS transcripts, Forms W-2, evidence of other income not reflected on such documents (such as child support and alimony not reported as income), or a certification that would verify income through other relevant data sources.

Under the categorical eligibility verification method, an SGO would verify that the household income did not exceed 300 percent of area median gross income through review of written documenta-

tion, such as an award letter, dated within the last 12 months, documenting that an individual in the student's household currently is approved for assistance from or participation in Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 housing, or Supplemental Security Income (SSI)). This safe harbor responds to comments requesting a streamlined eligibility method for eligible students who are highly unlikely to be members of a household with income above 300 percent of area median gross income, thus reducing administrative burden by relying upon eligibility determinations that have already been made by government agencies. Because the statute requires that this determination be made on a household basis, eligibility for participation in reduced-price or free lunch programs that apply to an entire school, rather than on an individual level, is not considered adequate verification for this purpose.

The Treasury Department and the IRS request comments on other needs-based programs, such as State or Tribal programs, that also should be included in this categorical eligibility verification method.

Additionally, proposed § 1.25F-3(c)(6)(iii)(C) would provide a safe harbor for SGOs awarding individual scholarships for academic tutoring or special needs services at schools in low-income areas. Pursuant to this safe harbor, if an SGO provides scholarships to individual students at schools in a low-income area for individual academic tutoring, or for special needs services in the case of a special needs student, and the individual students receiving those services are selected by the school on the basis of the particular student's academic or special need, the recipient students would be treated as meeting the household income requirement regardless of whether the student's household income is verified. These proposed regulations would provide two situations where the safe harbor could be used to streamline verification of household income. First, if the school is located in a qualified census tract, as identified at *https://www.huduser.gov/portal/sadda/sadda_qct.html* (or successor website), or in guidance published in the **Federal Register** or Internal Revenue Bulletin (*see* §§ 601.601(d)(2) and 601.602 of this chapter) or, as appropriate, in forms, instructions, and publications available on *https://www.irs.gov*. Second, if the school certifies that at least 80 percent of its students reside in such a qualified census tract, regardless of the location of the school.

In order to avail itself of this safe harbor, however, proposed § 1.25F-3(c)(6)(iii)(C) would require that the SGO annually obtain and provide to the covered State a third-party audit addressing the SGO's compliance with the safe harbor requirements. The auditor's report would be required to include several certifications, including that the school meets one of the two qualified census tract eligibility requirements described above; that the scholarship recipients were selected by the school based on academic or other need; that tutors or other providers were qualified to render the services obtained with scholarship funds; that the student's need for the services, including the nature and extent of the services needed, is independently diagnosed by a professional not associated with the provider or vendor of the services; and that the services met appropriate quality standards, were provided with a duration and frequency commonly required to produce benefit, and their impact on each individual scholarship recipient was assessed.

Finally, proposed § 1.25F-3(c)(6)(iii)(D) would provide a safe harbor for foster children. Specifically, eligible students who are foster children would be treated as meeting the household income requirement regardless of whether the student's household income is verified. For this purpose, proposed § 1.25F-1(a)(5) would define a "foster child" as a child who has been removed from the custody of a parent or legal guardian and placed under the care or placement authority of, or has become the legal responsibility of, a child welfare agency, regardless of whether the child has been or will be placed with a person by an authorized placement agency or by judgment, decree, custody order, or any other order of any court of competent jurisdiction (other than an order appointing a legal guardian of the child). The term "authorized placement agency" would mean a State, the District of Columbia, a possession of the United States, a foreign country, an Indian Tribal government (as defined in section 7701(a)(40)), or an agency or organization that is authorized by a State (including a non-federally recognized Tribe that otherwise is authorized to act on such matters under applicable State law), or a political subdivision of any of the foregoing, to place children for legal adoption or in foster care.

*G. Students solely within the State*

Section 25F(c)(3) defines a qualified contribution as a charitable contribution of cash to an SGO "that uses the contribution to fund scholarships for eligible students solely within the State in which the organization is listed pursuant to subsection (g)." However, it is unclear whether "solely within the State" limits the eligible students who may receive scholarships, the use of the scholarships, or both. This distinction is consequential: if the phrase modifies eligible students, contributions may qualify so long as the scholarships benefit only students residing in the State in which the SGO is listed. On the other hand, if it instead modifies the scholarships, only expenses incurred in the State in which the SGO is listed would qualify, regardless of the residence of the eligible student.

Some stakeholders have suggested that the proposed regulations allow scholarships to be awarded to students residing within the State in which the SGO is listed, even if the student is attending school in another State. Other stakeholders suggested allowing scholarships to be awarded to students attending school within the State in which the SGO is listed, even if they reside in a different State. These stakeholders stated that Congress intended the provisions of section 25F to be broadly applied to benefit the highest number of eligible students. These stakeholders also cited a desire for maximum flexibility for children in military families, children attending boarding schools, and children living near a State border and attending school in a State bordering the State of their residence.

Some stakeholders suggested that the intent of the statute appears to be focused on where students attend school, rather than where students reside, or that a

school located outside of a covered State should not be able to receive section 25F scholarship funds, regardless of where the SGO is located.

Another stakeholder proposed that, once a scholarship is awarded by an SGO, the scholarship funds should "attach" to the student and not be restricted with regard to the State in which the funds are used, consistent with West Virginia's Hope Scholarship and with Indiana's voucher program, for example.

The Treasury Department and the IRS interpret the statutory language "eligible students solely within the State in which the organization is listed" to refer to the residence of the student, rather than where a school is located. Accordingly, proposed § 1.25F-3(c)(7) would provide that a contribution is considered used to fund scholarships for eligible students solely within the State in which the organization is listed pursuant to proposed § 1.25F-3(g) only if the students receiving scholarships reside in that State as determined under State law. Exceptions to this rule would be provided for students who are dependents of a member of the Armed Forces of the United States, as well as for students who are dependents of an individual residing on Indian Lands (as defined in 25 U.S.C. 3501(2)).

Proposed § 1.25F-3(c)(7) also would provide examples illustrating the application of these rules.

*H. Priority in awarding scholarships*

Section 25F(d)(1)(D) requires that SGOs, in their award selections, give priority consideration to students awarded a scholarship the previous year, and then to any eligible student who had a sibling who was awarded a scholarship by that SGO.

Proposed § 1.25F-3(c)(8) would provide that an SGO has flexibility to consider the particular needs of potential scholarship recipients and the type of expenses for which the scholarship is being awarded. For example, a prior scholarship recipient should be given priority with regard to an award for tuition, fees, and room and board, to ensure that the eligible student is able to continue attending the same school. Similarly, the siblings of such an award recipient should be given priority so that siblings are able to attend the same school. However, if a scholarship is awarded based on need for individual academic tutoring or special needs services, the fact that a student was a previous scholarship recipient, or that a student has a sibling who was a previous scholarship recipient, may not be relevant and priority instead can be based on need for the services.

*I. Disqualified persons*

Notice 2025-70 requested comments on the definition of a disqualified person for purposes of section 25F(d)(2). Stakeholders generally supported treating SGO officers and directors as disqualified persons, but some suggested that family members of such officers and directors should remain eligible for scholarships. Some stakeholders specifically suggested that exceptions should be permitted if the SGO employs uniform, blind, or anonymized scholarship selection procedures.

The Treasury Department and the IRS have determined that such an exception is inconsistent with section 25F. Section 25F(d)(2)(B)'s incorporation of the term "rules similar to" those of section 4946 reflects the same Congressional choice embodied in the self-dealing rules of section 4941: categorical prohibitions are preferred to exceptions relying on inquiries into procedural safeguards or benign intent. Allowing for "blind" or "anonymized" selection procedures to modify the otherwise categorical prohibitions would present a significant and unjustified deviation from the rules set forth in section 4946. Moreover, section 25F requires that SGOs prioritize students awarded a scholarship the previous year and students with a sibling who was awarded a scholarship by such organization, meaning that truly "blind" or "anonymized" selection procedures are impossible.

Some stakeholders suggested that selection committee members or anyone with influence over the awarding of scholarships should be considered disqualified persons. Others suggested that selection committee members should not be disqualified if they are not compensated or have no material financial interest in the SGO.

The Treasury Department and the IRS have determined that individuals who participate in the awarding of scholarships by the SGO should be treated as disqualified persons and that an exception for uncompensated members with no financial interest in the SGO is unwarranted. The relevant concern is not whether an individual has a financial interest in or compensation from the SGO, but whether such individual has the ability to confer a financial benefit on themselves or a family member by influencing scholarship awards.

Several stakeholders addressed how to define "substantial contributor" for purposes of section 25F. Many recommended that the definition be consistent with section 4946, under which a substantial contributor is generally any person who contributed an aggregate amount of more than $5,000, if such amount is more than 2 percent of the total contributions the organization received before the end of the taxable year in which that person's contributions were received. Notice 2025-70 requested comments on whether to exclude the $5,000 threshold and rely solely on the 2 percent threshold, the aim of which would be to prevent the development of small organizations intended to benefit small groups of related people without explicitly violating the earmarking prohibition. Stakeholders suggested this approach could disproportionately harm small or start-up SGOs and reduce scholarship availability.

Upon further consideration, the Treasury Department and the IRS have concluded that the stated concern is addressed by the existing private benefit doctrine, which would prevent such an organization from properly being recognized as described in section 501(c)(3), thus causing it to be unable to qualify as an SGO. Accordingly, proposed § 1.25F-3(d)(2)(i) adopts the 2 percent and $5,000 thresholds, consistent with section 4946.

However, consistent with the operational requirement safe harbor, which allows SGOs to simplify compliance with the section 25F operational requirements by measuring them at the section 25F segregated account level, these proposed regulations also would apply the disqualified person requirement at the section 25F segregated account level. Application at the section 25F segregated account level ensures that scholarships are not awarded to disqualified persons measured at the

same operational level at which the SGO otherwise satisfies section 25F(d). Thus, proposed § 1.25F-3(d)(2) would provide that a substantial contributor means any person who contributed an aggregate amount of more than $5,000 to a section 25F segregated account during the taxable year, if such amount is more than 2 percent of the total contributions received by that section 25F segregated account during the taxable year.

One stakeholder recommended removal of the substantial contributor rule altogether or alternatively incorporating a higher threshold to be considered a disqualified person. The proposed regulations would not eliminate the substantial contributor rule or increase the dollar threshold, as substantial contributors may be able to exercise influence over an SGO by virtue of the size of their contribution relative to the size of total contributions.

Some stakeholders suggested that the substantial contributor calculation should be considered each year based on contributions from that year only, rather than cumulative contributions from the organization's inception. The proposed regulations would adopt this approach based on the view that it better reflects the expected giving patterns to SGOs and more accurately identifies those donors whose current level of contributions may give them meaningful influence. Accordingly, proposed § 1.25F-3(d)(2) would determine substantial contributor status based on contributions received during the taxable year.

A few stakeholders suggested a rule completely prohibiting SGOs from providing scholarships to the family members of any donors. The proposed regulations do not adopt the recommendation. The substantial contributor framework already addresses this concern by identifying those donors who may have meaningful influence over the SGO. Extending this status to all donors regardless of contribution size would sweep in contributors with no meaningful influence and could deter contributions in a manner inconsistent with section 25F's broader goals.

For purposes of determining persons who are substantial contributors, a person would be treated as making all contributions made by his or her spouse. A person's status as a substantial contributor is determined as of the close of each taxable year. Further, proposed § 1.25F-3(d)(4) would provide that once an individual is treated as a substantial contributor for a given taxable year of the SGO, such individual will be treated as a substantial contributor for that taxable year as well as the immediately succeeding taxable year of the SGO.

Evaluating substantial contributor status at taxable year end could result in an SGO unknowingly awarding scholarships to individuals who become disqualified persons by virtue of contributions made after the award of the scholarship. To reduce the risk of an SGO losing its SGO status by inadvertently awarding a scholarship to a disqualified person, proposed § 1.25F-3(d)(2)(ii) would indicate that a scholarship awarded to a disqualified person will not be treated as such if, at the time the scholarship was awarded, two requirements are met for that taxable year. First, the recipient would not have been a disqualified person had the substantial contributor determination been made as of the date of the award based on contributions received by the organization through that date. Second, the SGO did not know or reasonably expect that the recipient would become a disqualified person. Proposed § 1.25F-3(d)(5) would provide examples illustrating the rules addressing disqualified persons.

One stakeholder proposed a rule prohibiting board members, officers, and substantial contributors from having financial interests in recipient schools. The Treasury Department and the IRS have determined that such a prohibition is not required by section 25F. Board members, officers, and substantial contributors would be defined as disqualified persons and conflicts that may arise as a result of their relationships with recipient schools would be subject to scrutiny under other provisions of the Code, such as sections 501(c)(3) and 4958.

Accordingly, proposed § 1.25F-3(d)(1) provides the following list of those included in the definition of a disqualified person for purposes of section 25F: substantial contributors to the SGO or to the 25F segregated account; officers, directors, or trustees of the SGO (or individuals with similar powers and responsibilities); any individual participating in the selection of scholarship recipients, including as a member of a committee; and members of the families of any such person. Proposed § 1.25F-3(d) would clarify that, for these purposes, members of one's family include only spouses, ancestors and descendants of the individual or the individual's spouse, siblings of the individual or the individual's spouse, the descendants of siblings, and the spouse of any of these individuals. Descendants would be defined to include legally adopted children and stepchildren of any individual.

## IV. Reporting and Recordkeeping Requirements for SGOs

### *A. Overview*

Proposed § 1.25F-4 would provide reporting and recordkeeping requirements for organizations for purposes of section 25F that supplement the general recordkeeping requirements under section 6001 imposed on all persons liable for a tax imposed under Title 26. Proposed § 1.25F-4(b) would describe the mandatory registration process for organizations through the IRS SGO portal. Proposed § 1.25F-4(c) would provide the requirements for an organization's acknowledgement, recordkeeping and reporting for the receipt of amounts designated as qualified contributions. Proposed § 1.25F-4(d) would describe the rules relating to an SGO's annual reporting requirements. Proposed § 1.25F-4(e) would describe an organization's annual financial and programmatic audit requirement.

### *B. Mandatory registration through IRS SGO portal*

In determining how to enforce and administer the requirements of section 25F, the Treasury Department and the IRS considered paper or electronic communications and determined that an IRS SGO portal would provide the most efficient way to timely interact with SGOs. Proposed § 1.25F-4(b) would require an organization to register electronically through the IRS SGO portal, which will allow each organization to obtain instructions for creating a unique donor number, based on a uniform format to be used by all SGOs, and report qualified contribu-

tion information to the IRS. The organization also would use the IRS SGO portal to periodically authorize disclosure of the organization's name and identifying information on the IRS SGO list for a calendar year, available on *https://www.irs.gov*. An organization must authorize such disclosure if it wants the IRS to publish such information on the IRS SGO list.

Because an organization would not be able to generate the unique donor number to provide it to a donor until the organization registers in the IRS SGO portal, and because a donor would need that unique donor number to substantiate a qualified contribution, proposed § 1.25F-4(b)(2) would require an organization to complete the registration process with the IRS as soon as possible and preferably before the organization appears on any State SGO list. Until the organization has registered in the IRS SGO portal, the organization will not be able to comply with the acknowledgement and reporting requirements, and that compliance is a necessary part of substantiating that a donor's qualified contribution is eligible for the credit allowed under section 25F.

Proposed § 1.25F-4(b)(3) would describe the information required to register, specifically: the organization's name, IRS employer identification number (EIN), address, telephone number, and year of formation; the name of a person whom the IRS may contact if there is an issue with the organization's registration; the organization's taxable year; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as provided in guidance. Proposed § 1.25F-4(b)(4) would provide that the IRS will review the information provided to verify that all the required information has been submitted and will provide instructions to the organization for creating a unique donor number in a uniform format to be used by all SGOs, for each donor who has designated at least one payment to the organization as a qualified contribution to the SGO during the calendar year.

*C. Donor acknowledgement and reporting of qualified contributions received by SGOs*

Notice 2025-70 asked what information SGOs should be required to provide to their donors, including whether SGOs should be required to provide the donor with written substantiation in order for the donor to take the section 25F credit. Many stakeholders recommended that SGOs provide a standardized donor acknowledgement form to taxpayers that would include the donor's name and address, the name of the SGO and its EIN, and the amount of the qualified contribution. Other stakeholders suggested that SGOs should not be responsible for reporting the particulars of a donation, other than informing donors that the donation could be eligible for the section 25F credit.

Proposed § 1.25F-4(c)(1) would require the organization to transmit a timely written acknowledgement to each donor with respect to qualified contributions made by such donor during the calendar year. Proposed § 1.25F-4(c)(1)(i) would require the timely written acknowledgement to include: the organization's EIN; the total amount of contributions made by the donor to the organization during the calendar year that the donor designated as qualified contributions; the unique donor number provided to the donor; a statement as to whether the organization provided any goods or services in consideration for any qualified contributions made by the donor; and a description and good faith estimate of the value of any such goods or services. Proposed § 1.25F-4(c)(1)(ii) would require organizations to provide the timely written acknowledgement to the donor no later than January 31 of the calendar year following the calendar year in which the donor made a qualified contribution. The timely written acknowledgement may be provided in writing or in any other form acceptable to the donor, including by electronic delivery if the donor consents to receiving the statement electronically and has not withdrawn the consent before the statement is furnished.

Proposed § 1.25F-4(c)(2) would require organizations to report information about qualified contributions to the IRS. Proposed § 1.25F-4(c)(2)(i) would require the following information to be reported with respect to each unique donor number assigned by the organization: the donor's name and address, the aggregate amount of qualified contributions made by the donor to the organization during the calendar year; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F, as may be described in further guidance. Proposed § 1.25F-4(c)(2)(ii) would require organizations to report this information no later than February 28 of the year following the calendar year in which such qualified contributions were made. Unless otherwise provided in guidance, the reporting would be required to be done through the IRS SGO portal in accordance with the instructions provided therein.

*D. Reporting operational information to the IRS*

Some stakeholders had suggested relying on an SGO's "sworn compliance affidavit" in determining whether an organization meets the criteria and requirements of being an SGO. Other stakeholders insisted that an SGO's self-attestation alone should not be sufficient, but suggested that an individual responsible for the operation of the SGO, or an approved third party, could attest that the SGO complied with all statutory requirements.

Other stakeholders advocated for the regulations to provide a "standard Federal checklist," as States vary in their capacity to review nonprofit organizations and many have no existing SGO oversight programs.

In accordance with the concept of such a checklist, these proposed regulations would provide that SGOs must annually certify that they meet the criteria and requirements of being an SGO. Stakeholders stated that, absent a standard Federal checklist, allowing each State to interpret and enforce Federal eligibility requirements would likely result in a patchwork of standards, procedures, and reporting obligations that would significantly increase administrative complexity and compliance costs, particularly for SGOs operating in multiple States.

Thus, proposed § 1.25F-4(d) would require an organization that was an SGO for any part of its taxable year to provide an annual certification to the IRS. Proposed § 1.25F-4(d)(2)(i) would require the organization to annually certify, with respect to its taxable year or the period within its taxable year during which it was an SGO, that such organization: was described in section 501(c)(3) and exempt

from tax pursuant to section 501(a), and not a private foundation, as defined in section 509; prevented the co-mingling of qualified contributions with other amounts by maintaining a section 25F segregated account, which must contain only qualified contributions and the earnings therefrom, for each covered State on whose State SGO list the SGO appears, deposited all qualified contributions into that section 25F segregated account, and maintained a complete set of books and records for each of its section 25F segregated accounts; satisfied the operational requirements of section 25F(d)(1) and proposed § 1.25F-3(c); did not award a scholarship to any disqualified person; was located in each State on whose State SGO list the organization was listed; provided each donor a timely written acknowledgement; and commissioned a financial and programmatic audit as described in part IV.E. of this Explanation of Provisions by a qualified independent third party (or, for organizations with annual receipts of $500,000 or less, a committee of independent persons unrelated to the organization's management) and provided the audit report to each covered State on whose State SGO list the organization was listed.

Proposed § 1.25F-4(d)(2)(ii) would provide additional certifications relating to operational requirements. Proposed § 1.25F-4(d)(2)(ii)(A) would provide that a single-State SGO must certify that it provided scholarships to 10 or more students, not all of whom attended the same school; spent not less than 90 percent of the income of the organization on scholarships for eligible students; verified that scholarships were used solely for qualified elementary or secondary education expenses; verified that scholarships were awarded only to eligible students who were members of an eligible household and who were eligible to enroll at a public elementary or secondary school; verified that the recipient eligible students were solely within the State; awarded scholarships with a priority (as defined in the proposed regulations) for eligible students awarded a scholarship for the previous school year and, thereafter, for any eligible students who have a sibling who was awarded a scholarship from such SGO; did not earmark or set aside contributions for scholarships on behalf of any particular student; and, if the organization used the safe harbor found in proposed § 1.25F-3(c)(6)(iii)(C) for providing individual scholarships for individual academic tutoring or special needs services at schools in low-income areas, that it obtained a third-party audit and provided the audit report to the covered State in accordance with proposed § 1.25F-3(c)(6)(iii)(C)(*2*).

Proposed § 1.25F-4(d)(2)(ii)(B) and (C), respectively, would require an organization that was either a single State SGO using the safe harbor in § 1.25F-3(c)(2) or a multistate SGO for any part of a calendar year within its taxable year to annually certify that at least 85 percent of such organization's activities during the taxable year were scholarship granting activities and that each of the elements of proposed § 1.25F-4(d)(2)(ii)(A) was met separately with respect to the organization's section 25F segregated account for each covered State on whose State SGO list the SGO appeared.

Proposed § 1.25F-4(d)(3) would describe the information an organization that was a single-State SGO for any part of a calendar year within its taxable year is annually required to report to the IRS. The information described in proposed § 1.25F-4(d)(3) would assist States, the IRS, and taxpayers considering making a qualified contribution in determining the organization's compliance with the requirements of section 25F, its size, and its mission.

Proposed § 1.25F-4(d)(3)(i) would require an organization to report, with respect to its taxable year, or the period within its taxable year during which it was an SGO, the following information: (1) the number of students that applied for a scholarship; (2) the number of students selected for a scholarship in accordance with the safe harbor in proposed § 1.25F-3(c)(6)(iii)(C); (3) the number of scholarships awarded; (4) the highest, lowest, and average amount of the scholarships awarded; (5) the number of schools at which the scholarship recipients were enrolled; (6) aggregate data on each category of qualified elementary and secondary education expenses for which scholarship funds were used; (7) the amount of the organization's income; (8) with regard to the amounts spent on scholarships for eligible students solely within the State during the taxable year: the total amount spent during the year; and of the total amount spent during the year, the amount counted as satisfying the 90 percent of income spending requirement for the prior year, and the amount counted as satisfying that requirement for the current year; (9) the percentage of the prior year's income spent on scholarships for eligible students solely within the State, taking into account the amounts spent in both the prior and current years; (10) the percentage of the current year's income spent on scholarships for eligible students solely within the State; and (11) any other information required in accordance with guidance.

Proposed § 1.25F-4(d)(3)(ii) would require a single-State SGO using the safe harbor found in proposed § 1.25F-3(c)(2) to report the information described in proposed § 1.25F-4(d)(3)(i) with respect to its section 25F segregated account, rather than with respect to the organization as a whole.

Proposed § 1.25F-4(d)(3)(iii) would require a multistate SGO to report this information separately with regard to its section 25F segregated account for each covered State on whose State SGO list the SGO appears.

Proposed § 1.25F-4(d)(4) would provide the time and manner of reporting the annual certification and information. Except to the extent otherwise provided in guidance, the certification and information would need to be provided at such time and in such manner as the IRS may prescribe by publication, form, or instructions, and attached to the annual Form 990 for those SGOs required to file Form 990. This requirement would be consistent with feedback advocating for the use of the Form 990 as an efficient mechanism for reporting SGO activity due to its standardization, transparency, and consistency across jurisdictions.

For organizations required to file an annual information return under section 6033(a), the required form must be included as an attachment. An organization that is not required to file an annual information return under section 6033(a) must provide this form separately to the IRS on or before the 15th day of the 5th calendar month following the close of the period for which the form reports the required certifications and information.

Organizations must concurrently provide a copy of the form to each State on whose State SGO list the organization appears in accordance with guidance.

*E. Required audits*

Some stakeholders suggested periodic SGO audit requirements, noting the need for lenience in an SGO's first year on a State SGO list. Another stakeholder suggested that new SGOs should receive "heightened scrutiny" compared to those with a proven track record of managing donations and administering student scholarships. Stakeholders suggested that, in years after the first year of operation, SGOs should be subject to periodic audits, mandatory reporting requirements, and immediate removal upon noncompliance.

In considering what regulations or other guidance would best carry out the purposes of section 25F, including for purposes of enforcing the SGO operational requirements in section 25F(d) and ensuring the integrity of the State lists of SGOs in section 25F(g), the Treasury Department and the IRS have attempted to balance the need for State oversight of SGOs with the burden that such requirement places on State governments. As a result, proposed § 1.25F-4(e) would require each organization that was an SGO during any part of the preceding taxable year to commission and undergo an annual financial and programmatic audit by a qualified independent third party and to provide the audit results to each covered State on whose State SGO list the SGO appeared.

Proposed § 1.25F-4(e)(2) would define "qualified independent third party," for organizations whose total receipts (whether or not required to be deposited into its section 25F segregated account) for the most recent taxable year were more than $500,000 as an external, independent professional or accredited body that regularly assesses an organization's compliance, financial records, or processes (including internal controls) against specific standards to perform the audit required by proposed § 1.25F-4(e). To provide flexibility and reduce expenses for small entities, proposed § 1.25F-4(e)(2) would permit an organization whose total receipts for the taxable year did not exceed $500,000 to use a committee of independent persons unrelated to the organization's management to conduct the audit, with the report signed under penalties of perjury.

Proposed § 1.25F-4(e)(3) and (4) would describe the content and scope of the required audit, providing a list of the items to be reviewed and addressed.

## V. State election, SGO list, and certification of SGOs

*A. Overview*

Proposed § 1.25F-5 would provide rules for a State election and a State's identification and certification of organizations located in the State that are SGOs. Proposed §1.25F-5(b) describes rules that would apply for the State to register in the IRS State section 25F portal, which, except for the first year for which the State makes an election, may be used for the submission of the State election (including advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in accordance with guidance. Proposed §1.25F-5(c) describes the requirements that would apply for a State election. Section 1.25F-5(d) provides rules that would apply regarding the State SGO list, including information and certifications a State is required to provide for each organization included on the State SGO list and procedures a State is required to use in determining whether an organization is an SGO. Proposed §1.25F-5(e) addresses rules that would apply to State administrative requirements for SGOs.

*B. IRS State section 25F portal*

Notice 2025-70 stated that the Treasury Department and the IRS anticipated that the forthcoming proposed regulations would require the State to electronically submit the State election, the State SGO list, and certification to the IRS. Commenters supported an electronic process for States to submit State SGO lists, as they considered electronic submissions to be more efficient and timelier than paper submissions. Thus, proposed § 1.25F-5(b) would require a State that chooses to participate under section 25F to register for and use the IRS State section 25F portal in accordance with the instructions therein.

Proposed § 1.25F-5(b)(2)(i) would provide that the Governor of the State or such other individual, agency, or entity as is designated under State law to make elections with respect to Federal tax benefits on behalf of the State may authorize up to two designated officials to register for and use the IRS State section 25F portal. Proposed § 1.25F-5(b)(2)(ii) would require each designated official to be an elected official, the Director of Taxation, or an appointed official of the State.

Proposed § 1.25F-5(b)(3) would require States to obtain or be assigned a special-purpose EIN for purposes of registering. The IRS will inform States how to obtain this EIN and States will not be required to use a Form SS-4 for these purposes.

Proposed § 1.25F-5(b)(4) would require that the following information be provided to register: the special-purpose EIN; contact information, including the name, official title, telephone number, and email address of the State's designated officials; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

At the conclusion of the registration process, a State would be able to electronically transmit through the IRS State section 25F portal its State election (including advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in future guidance.

To mitigate the risk of any State's implementation issues for the first year for which the IRS State section 25F portal will be operational, the IRS is considering the creation of alternative temporary procedures that would be outlined in future guidance to help ensure that all States that wish to participate under section 25F are reasonably able to complete their registration for the IRS State section 25F portal or otherwise submit the State election and State SGO list for calendar year 2027.

*C. State election*

*1. In general*

Proposed § 1.25F-5(c) would provide the procedure for making a State election.

Proposed § 1.25F-5(c)(1) would provide that, except as provided in proposed § 1.25F-5(c)(3), the State election may be made either as an advance election that is perfected through the submission of the State SGO list or as an election made with such submission.

Several stakeholders recommended restricting a State's ability to "opt out" after having made an election. Many stakeholders believe that States should not be able to opt out on a year-to-year basis, as families and students will rely on these scholarships for multiple years. However, consistent with the requirement in section 25F(c)(5) that the list submitted for the applicable covered State under section 25F(g) is "for the applicable year," proposed § 1.25F-5(c)(1) would confirm that an election to participate under section 25F is made only for a single calendar year, and that all of the requirements in proposed § 1.25F-5(c) must be satisfied for each year for which an election is made. The advance election procedure in proposed § 1.25F-5(c)(3), discussed in part V.C.2. of this Explanation of Provisions, would enable a State to opt in for an upcoming calendar year by making an advance election and then later, in effect, opt out by failing to perfect the election in accordance with proposed § 1.25F-5(c)(3)(ii). The Treasury Department and the IRS do not interpret section 25F(g) and (c)(5) as allowing for any revocation once a State has completed its State election, including an advance election that has been perfected.

As described in section 25F(g)(1)(B), proposed § 1.25F-5(c)(2) would specify that an election must be made by the Governor of the State or by such other individual, agency, or entity as is designated under State law to make such elections on behalf of the State with respect to Federal tax benefits.

*2. Advance election procedure*

Notice 2025-70 stated that the Treasury Department and the IRS read section 25F(g) to provide that an election by a State to participate under section 25F may be made prior to or contemporaneously with the submission of the State's list of all organizations located in the State that satisfy the definition of an SGO. On December 12, 2025, the Treasury Department and the IRS issued Rev. Proc. 2026-6, *Advance Election to Participate Under Section 25F for 2027*, to allow States, including the District of Columbia, to make an Advance Election to participate in a new tax credit for calendar year 2027.

Proposed § 1.25F-5(c)(3) would provide guidance for States on how to submit an election in advance of the submission of the State SGO list, including guidance for States that have submitted an advance election for 2027 on Form 15714, *Advance Election to Participate Under Section 25F for 2027*. A State's failure to timely perfect its advance election by providing its State SGO list for a calendar year by the specified date in § 1.25F-5(c)(3)(ii) would result in a failure to meet the requirements of section 25F(g), effectively preventing any organization in the State from qualifying as an SGO for the calendar year for which the advance election was not perfected.

Proposed § 1.25F-5(c)(3)(iii) would provide that the IRS will maintain and publish on *https://www.irs.gov* a list of States that have made an advance election.

*3. Timing of State elections under proposed § 1.25F-5(c)(3)(i) and (c)(4)*

Proposed § 1.25F-5(c)(3)(i) would identify the time period during which an advance election may be made and proposed § 1.25F-5(c)(4) would identify the time period during which a State election may be made with the submission of the State SGO list.

Notice 2025-70 stated that the Treasury Department and the IRS anticipated that the forthcoming proposed regulations under section 25F would require each State electing to participate under section 25F for the 2027 calendar year to submit to the IRS, by a specified date before January 1, 2027, the State's list of organizations located in that State meeting the requirements of section 25F(c)(5) for the 2027 calendar year along with the State's certification under section 25F(g)(2), and that those forthcoming proposed regulations would include a similar requirement for submission of an annual list and certification from each electing State for subsequent years.

Proposed § 1.25F-5(c)(3)(i)(A) would provide that, except as otherwise provided in the transition rule in proposed § 1.25F-5(c)(3)(i)(B), a State may submit an advance election through the IRS State section 25F portal on or after January 2 and on or before September 30 of the calendar year immediately preceding the calendar year for which the election is being made. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

Proposed § 1.25F-5(c)(3)(i)(B) would provide a transition rule for the first calendar year for which the State makes an election. Proposed § 1.25F-5(c)(3)(i)(B)(*1*) would provide that, for calendar year 2027, a State must submit an advance election on Form 15714 on or before January 1, 2027. Proposed § 1.25F-5(c)(3)(i)(B)(*2*) would provide that, for future years, a State making its first election to participate under section 25F must submit an advance election as provided in future guidance. Consistent with these transition rules, proposed § 1.25F-5(c)(4) would provide that, for the first year in which the State is electing to participate under section 25F, it cannot make its election with the submission of the State SGO list.

During the last three months of the immediately preceding calendar year or on January 1 of the year for which the election is being made, a State may make its election to participate under section 25F either as part of submitting its State SGO list for that year with the required information and certifications, or by perfecting its advance election made under proposed § 1.25F-5(c)(3)(i)(A) by providing its State SGO list for that year with the required information and certifications.

Several stakeholders requested clarification that the deadline for an election to participate for the 2027 calendar year should be after January 1, 2027, consistent with section 25F(g)(1)(A). For calendar year 2027 only, a State must submit its advance election on or before January 1, 2027, however, the State may perfect its advance election by submitting its State SGO list on or before February 15, 2027.

Some stakeholders recommended clarifying that the election deadline for calendar years after 2027 should be no later than 11:59 pm on January 1 of the calendar year, to accommodate an election made by a Governor who is newly inaugurated. The Treasury Department and the IRS agree and clarify that, for these

purposes, "on or before January 1 of that year" means up to 11:59 pm on January 1.

*4. Certifications and other required information for State elections*

Proposed § 1.25F-5(c)(5) would require that the person with authority to make the State election, or a designated official, certify that the individual, agency, or entity making the State election has the authority to make the State election on behalf of the State, and the person authorizing any individuals as designated officials under proposed § 1.25F-5(b)(2) has the authority to do so.

In addition, proposed § 1.25F-5(c)(5) would require the person with authority to make the State election or a designated official to:

(1) Provide the enacted statutory or regulatory provisions that are binding on the State and establish the authority of an individual to make the State election on behalf of the State, if the individual making the election is not the Governor of the State (or the Mayor of the District of Columbia);

(2) Provide the required information and certifications for each SGO on the State SGO list;

(3) Certify that the State SGO list includes every organization located in the State that is seeking inclusion on the State SGO list, and that meets the definition of an SGO, and is operating in a manner that satisfies the operational requirements in section 25F(d) and proposed § 1.25F-3(c) and the applicable State requirements;

(4) Provide the certification of State policies and procedures required for its State SGO list in proposed § 1.25F-5(d)(6);

(5) Describe any tax credit (including relevant State statutes, regulations, and other authoritative guidance) available under State law for contributions made to SGOs during the calendar year for which the State is electing to participate under section 25F; and

(6) Provide any other information and certifications described in future guidance.

*D. State SGO lists*

*1. Overview*

Section 3.03 of Notice 2025-70 stated that the Treasury Department and the IRS interpret section 25F(g) as requiring each covered State to verify that each organization on the State's list satisfies all the requirements of section 25F(c)(5). Section 3.04 of Notice 2025-70 further stated that the Treasury Department and the IRS anticipate that States will be required to have implemented, and to comply with, various procedures to verify that the required information submitted by the covered State is accurate and complete. Section 3.04 of Notice 2025-70 requested comments on what types of uniform policies, procedures, recordkeeping, or other requirements would be reasonable to ensure States can reliably verify that each organization meets the requirements of section 25F(c)(5), and, for States with similar programs, how those States determine whether organizations are meeting applicable requirements.

Many stakeholders favored self-attestation by SGOs that they met the requirements of section 25F(c)(5) so as to avoid the need for any State-level review process, stating that requiring States to verify compliance is overly burdensome and could discourage participation. Several stakeholders expressed concern that providing States with significant discretion over organizations seeking certification as an SGO would permit State officials to discriminate against organizations based on factors other than compliance with the requirements of section 25F. Some stakeholders requested explicit limits on State authority to prevent intrusion into SGO operations, as well as an appeals process for any organizations excluded from a State's list based on the State's administration of SGO requirements.

Proposed § 1.25F-5(d) would provide guidance on State SGO lists. Proposed § 1.25F-5(d)(2) and (3) would describe the information and certifications required as part of the State's election or advance election for a calendar year. Proposed § 1.25F-5(d)(4) would provide a transition rule for an organization that has not yet been required to provide information and certifications. Proposed § 1.25F-5(d)(5) would provide a procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS. Proposed § 1.25F-5(d)(6) would require a State to make a certification regarding its policies and procedures. Proposed § 1.25F-5(d)(7) would provide rules for changes to a State SGO list, and proposed § 1.25F-5(d)(8) would provide rules for the removal of an SGO from the IRS SGO list. Proposed § 1.25F-5(d)(9) would provide for the publication of the names of covered States and their State SGO lists on *https://www.irs.gov*.

*2. Information the State is required to provide about each SGO on its State SGO list*

Proposed § 1.25F-5(d)(2) would set forth the information that a State is required to provide annually with respect to each organization named on the State SGO list, including the name, the EIN, address, and telephone number of the organization; whether the organization has received recognition as a section 501(c)(3) public charity, or has a pending application for such recognition; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

*3. Certifications the State is required to provide about each SGO on its State SGO list*

Except as provided by the transition rule described in part V.D.4. of this Explanation of Provisions, proposed § 1.25F-5(d)(3) would require the State to certify that, with respect to each organization included on the State SGO list, the organization is located in the State and the organization prevents the co-mingling of qualified contributions with other amounts by maintaining a segregated section 25F account exclusively for qualified contributions, depositing all qualified contributions into its section 25F segregated account, and maintaining a complete set of books and records for its section 25F segregated account. The State also would be required to certify that the organization satisfies each of the operational requirements in section 25F(d) and proposed § 1.25F-3(c) and that the State has determined whether the SGO is a single-State or multistate SGO, reviewed the annual financial and programmatic audit report the organization is required to provide to the State, reviewed annual certifications and other information

the organization is required to provide to the IRS and investigated any failure by the SGO to provide the required certifications and other information, and has become reasonably satisfied that the SGO has corrected the failure, if possible, or has put in place procedures to prevent future failures. Finally, a State would be required to certify that the organization satisfies any other requirements the IRS deems necessary for purposes of administering section 25F as may be described in future guidance.

The Treasury Department and the IRS request comments on the certifications States would be required to make in accordance with proposed § 1.25F-5(d)(3), including any other certifications that should be required for a multistate SGO. Comments are also requested on whether any certification is disproportionately burdensome compared to the benefits to tax administration.

*4. Transition rule for an organization that has not yet been required to provide information and certifications to the IRS*

In recognition of the fact that much of the required reporting is of data derived from operations in the prior fiscal year, proposed § 1.25F-5(d)(4) would provide a transition rule for recently formed entities and other organizations without such historical data that have not yet been required to report on their operations as an SGO. This transition rule allows the State to rely on the organization's governing documents or bylaws, written policies and procedures, and other documentation the organization provides to the State as part of its request to be included on its State SGO list, reducing the burden on the State for this type of SGO.

However, for each year for which such an organization is included on the State SGO list during this transition period, proposed § 1.25F-5(d)(4) would require the State to determine that the organization's provisions, policies, and procedures expressly require the organization to satisfy the operational requirements in section 25F(d) and proposed § 1.25F-3(c), and that the documentation and information available to the State evidences the organization's ability and intent to satisfy such operational requirements. Proposed § 1.25F-5(d)(4) also would require the organization to concurrently provide the State with a copy of any information and certifications required to be provided to the IRS before the end of the transition period.

*5. Procedure that would apply when an organization's application for recognition of tax-exempt status is pending with the IRS*

Proposed § 1.25F-5(d)(5) would allow a State to include on its State SGO list those organizations whose application for recognition of tax-exempt status is pending with the IRS, but only if the State includes on its State SGO list all organizations seeking inclusion on that list whose application for recognition of tax-exempt status is pending with the IRS, the State has complied with the requirements of proposed § 1.25F-5(d)(4) for each organization, and the State makes the required certifications regarding the organization's tax-exempt status. The required certifications include that the organization has applied for tax-exempt status as a section 501(c)(3) public charity, the organization's tax-exempt status, if granted, will be effective retroactively to a date that is on or before January 1 of the year for which the State SGO list applies, and the State SGO list indicates that such organization's tax-exempt status is pending IRS recognition. The determination of whether tax-exempt status will be effective retroactively to a date on or before that January 1 is determined by the date of the formation of the organization and the date of its application for recognition of tax-exempt status. *See* section 6.09 of Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

As provided in proposed § 1.25F-5(d)(9)(ii), discussed in part V.D.9 of this Explanation of Provisions, the IRS will add each of these organizations to the IRS SGO list upon determining that the organization qualifies for tax-exempt status as a section 501(c)(3) public charity, if the organization consents to being included on the IRS SGO list.

*6. Certification of State policies and procedures*

Proposed § 1.25F-5(d)(6) would require a State to certify that its policies and procedures, including its procedures for assessing and responding to audit results, enable the State to make its own determination that each organization on the State SGO list is located in the State, is in compliance with section 25F(c)(5)(A) and (B) and § 1.25F-3(b)(1) through (4) and (6) and is operating in a manner that satisfies the operational requirements in section 25F(d) and proposed § 1.25F-3(c) and the applicable State requirements. Proposed § 1.25F-5(d)(6) also would require that a State certify that its policies and procedures provide for the prompt removal of an organization from the State SGO list, and notification to the IRS through the IRS State section 25F portal of such removal, upon a determination that an organization is not an SGO or does not meet the applicable State requirements. A State also would be required to certify that its policies and procedures require any publicly available lists of SGOs maintained by the State to be identical to the most recently submitted State SGO list, include the IRS SGO list's URL (Uniform Resource Locator), and state that a taxpayer may rely on an organization's inclusion on the IRS SGO list in accordance with proposed § 1.25F-2(b). Finally, proposed § 1.25F-5(d)(6) would require that the State certify that its policies and procedures ensure that the State's procedures before and after the removal of an organization from the State SGO list are fairly administered and afford due process in accordance with applicable Federal and State laws.

*7. Changes to State SGO list*

Proposed § 1.25F-5(d)(7)(i) and (ii) would provide guidance regarding the time period during which a State may replace or supplement its State SGO list for a calendar year. A State would be able to replace or supplement its State SGO list for a calendar year at any time before the deadline for perfecting or completing an election for that year by submitting the change in the IRS State section 25F portal in accordance with guidance published in the **Federal Register** or Internal Revenue Bulletin (see §§ 601.601(d)(2) and 601.602 of this chapter) or, as appropriate, in forms, instructions, and publications available on *https://www.irs.gov* and through the IRS SGO portal or IRS State

section 25F portal, as applicable. A State would not be able to make any additions to the State SGO list for a calendar year after that deadline; instead, any additions a State seeks to make after such deadline may be included as part of the State's submission of its State SGO list for the following calendar year.

Proposed § 1.25F-5(d)(7)(iii) would provide that a State may remove an SGO from its State SGO list at any time during the calendar year to which that list applies. If an SGO requests to be removed from a State SGO list, the State would be required to comply.

Many stakeholders requested guidance regarding the State's discretion in removing an SGO from the State SGO list. Stakeholders expressed concern that States could remove SGOs arbitrarily or for political reasons and sought rules to ensure transparency and uniformity regarding the removal process. In response, proposed § 1.25F-5(d)(7)(iii) would provide that a State could remove an organization from its State SGO list if the State determines, through a procedure providing due process to the organization, that the organization is not located in the State, does not satisfy the requirements for an SGO in section 25F(c)(5)(A) or (B) and proposed § 1.25F-3(b), or is not operating in a manner that satisfies the operational requirements in section 25F(d) and proposed § 1.25F-3(c) and the applicable State requirements. In each event, the State would need to indicate the removal and its effective date on its State SGO list and promptly notify the IRS so the IRS can remove the SGO from the IRS SGO list for the current year. The organization would be removed from the relevant part of the IRS SGO list for the current year to ensure that any contributions to the organization after the date of its removal from the State or IRS SGO list are not treated as qualified contributions.

*8. Removal of a non-compliant organization from the IRS SGO list*

Proposed § 1.25F-5(d)(8) would provide the list of circumstances under which an organization may be removed from the IRS SGO list. Under proposed § 1.25F-5(d)(8)(i), the IRS would remove an organization from the IRS SGO list following its determination that the organization is not a section 501(c)(3) public charity or automatic revocation of the organization's tax-exempt status by function of section 6033(j). Proposed § 1.25F-5(d)(8)(ii) would further provide that the IRS may remove an organization following its determination that the organization has failed to comply with a requirement of section 25F (other than the tax-exempt status requirement in section 25F(c)(5)(A)), or has failed to comply with the regulatory reporting, recordkeeping or audit requirements, including a failure to report qualified contributions in accordance with proposed § 1.25F-4(c). This IRS determination of non-compliance with the requirements of section 25F would be a Federal tax controversy under section 7803(e)(3) and § 301.7803-2, which provides the organization an opportunity to seek review by the IRS Independent Office of Appeals in the time and manner prescribed in applicable forms, instructions, or other administrative guidance. Under proposed § 1.25F-5(d)(8)(iii)(A), the IRS would remove an organization from the part of the IRS SGO list for a particular covered State upon notification that it has been removed from the State SGO list of that covered State.

Finally, proposed § 1.25F-5(d)(8)(iii)(B) would provide that, if a multistate SGO that is removed from a State SGO list under proposed § 1.25F-5(d)(8)(iii)(A) continues to satisfy the operational requirements in section 25F(d) and proposed § 1.25F-3(c) and one or more other covered States' applicable requirements as described in proposed § 1.25F-5(e)(1), the SGO will remain on the IRS SGO list with respect to such other covered States, subject to any further discretionary examination of the SGO by such other covered States or the IRS.

*9. Publication of covered States and State SGO lists*

Proposed § 1.25F-5(d)(9)(i) would provide that the IRS will maintain and publish the IRS SGO list on *https://www.irs.gov*. For those SGOs that have authorized the disclosure of their information on the IRS SGO list, the IRS SGO list will contain each SGO included on a State SGO list for each of the covered States for the calendar year and reflect each removal from a State SGO list and the date of the removal. If an SGO does not consent to the disclosure of its information on the IRS SGO list, a taxpayer would not be able to use the reliance offered by the IRS SGO list for purposes of establishing that the taxpayer's contribution to that organization is a qualified contribution. Instead, the taxpayer would need to rely on other evidence to establish that the organization is an SGO. If an SGO is removed from the IRS SGO list, its name and identifying information would be displayed in strike-through text, along with the date of the organization's removal from the list, to provide taxpayers with the information they may need in determining if their contribution is being made, or was made, to a valid SGO and thus is a qualified contribution eligible for the section 25F credit.

Proposed § 1.25F-5(d)(9)(ii) would provide for updating the IRS SGO list to include an organization whose tax-exempt status was pending when the State SGO list was submitted. Upon determining that the organization qualifies for tax-exempt status and that the effective date of such tax-exempt status is on or before January 1 of the calendar year for which the State SGO list applies, the IRS would add the organization to the IRS SGO list for that year as soon as the organization gives permission to be included on that list.

The publication of an IRS SGO list is consistent with feedback requesting that the IRS publish information to facilitate taxpayers' ability to determine which tax-exempt organizations are eligible to receive qualified contributions. *See* proposed § 1.25F-2(b)(1) (permitting reliance on the IRS SGO list to establish that a contribution is being made to an SGO).

*E. State administrative requirements*

Stakeholders submitted a broad range of comments regarding the level of discretion the State should have in reviewing and certifying SGOs. Concerns were raised that States might seek to prioritize particular types of schools or students or otherwise implement State education policies in a manner inconsistent with section 25F.

Proposed § 1.25F-5(e) would provide guidance on State administrative require-

ments. Proposed § 1.25F-5(e)(1) would provide that a State must require that SGOs meet all generally applicable State requirements for charitable organizations, including any State requirements that any organization must satisfy to be authorized to do business in the State and to solicit charitable contributions in the State. Additionally, States would be required to impose certain application, documentation and financial reporting requirements that are reasonably tailored to support the State's determination that the organization satisfies the operational requirements in section 25F(d) and proposed § 1.25F-3(c), and to facilitate the prevention and detection of fraud or abuse, including the misuse of scholarship funds such as through the duplication of scholarship awards to the same student for the same qualified elementary or secondary education expense.

Proposed § 1.25F-5(e)(2) would prohibit a State from requiring SGOs to operate in a manner that is more restrictive than the requirements set forth in section 25F(c)(5) and proposed § 1.25F-3(b) and (c), such as by limiting the type of school that scholarship recipients may attend or the types of qualified elementary or secondary education expenses for which scholarship funds may be used. This prohibition would be responsive to stakeholder feedback expressing concern that permitting States to impose additional requirements on SGOs or to exercise discretion to exclude an otherwise qualifying organization from the State SGO list could lead to arbitrary determinations and improper discrimination.

Proposed § 1.25F-5(e)(3) would provide that the procedures a State implements in accordance with proposed § 1.25F-5(e) are subject to Federal review. Upon discovering a pattern of irregularities or noncompliance, the IRS, in its discretion, may require a State to modify its procedures to ensure that its determinations regarding an organization's location in the State, and its satisfaction of proposed § 1.25F-3(b) and of the operational requirements in section 25F(d) and proposed § 1.25F-3(c) are being administered in accordance with the applicable statutory, regulatory, and appropriate State requirements.

Nothing in section 25F or these proposed regulations would alter States' obligations to comply with all other applicable Federal and State law, for example, the requirements under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*

## VI. Proposed Applicability Date

Each of proposed §§ 1.25F-1 through 1.25F-5 is proposed to apply to taxable years ending on or after the date on which the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**. Taxpayers, organizations, and States may rely on these proposed regulations for qualified contributions made on or after January 1, 2027, in taxable years ending before the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**, provided that taxpayers, organizations, and States follow the portions of the proposed regulations applicable to each in their entirety and in a consistent manner.

## Special Analyses

## I. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The proposed regulations have been designated by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. OIRA has determined that the proposed rulemaking is economically significant and subject to review under Executive Order 12866 and section 1(c) of the Memorandum of Agreement. Accordingly, the proposed regulations have been reviewed by OMB.

Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(a) of E.O. 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of E.O. 14192 requires that the "new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs" associated with prior regulations. A significant regulatory action (as defined in section 3(f) of E.O. 12866) that would impose total costs greater than zero is considered an E.O. 14192 regulatory action. This proposed rule, if finalized as proposed, is, therefore, expected to be an E.O. 14192 regulatory action.

*Need for Regulation*

Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the OBBBA, added new section 25F (*Qualified elementary and secondary education scholarships*) to the Code. Section 25F creates a dollar-for-dollar nonrefundable Federal tax credit of up to $1,700 for contributions made by individuals to scholarship granting organizations (SGOs).

The proposed regulations provide clarity to taxpayers, States, and SGOs to make the section 25F credit operable, including defining certain terms found in the statute and establishing procedures that ensure that the qualified contributions that generate the Federal tax credits are implemented in accordance with the statute.

*The Statute and the Proposed Regulations*

Section 70411 of the OBBBA added section 25F to the Code. Section 25F creates a tax credit for qualified contributions made by individual taxpayers to SGOs. SGOs are a type of charitable tax-exempt organization subject to unique reporting rules and operational and spending restrictions. They are required to focus their spending almost exclusively on the provision of scholarships for students eligible to attend elementary or secondary school who reside in households where the household income falls below

a certain threshold. These scholarships are restricted to being used for qualified elementary and secondary school expenses, and the SGO must provide scholarships to at least 10 students per year who do not all attend the same school.

The proposed regulations provide a number of definitions and clarifications to the statutory rules governing section 25F. In particular, the proposed regulations explain the calculation of the credit amount a taxpayer may claim and specify that qualified contributions must be made by individuals to receive the section 25F credit.

In addition, the proposed regulations address operational requirements of SGOs. The proposed regulations provide guidance for tax-exempt organizations that wish to operate as SGOs in multiple States, including what it means to be "located in the State." Furthermore, the proposed regulations consider the statutory requirement that an SGO spend not less than 90 percent of the organization's income on scholarships. Recognizing the potential for organizations to incur legitimate administrative costs in excess of 10 percent of income, the proposed regulations provide a safe harbor for organizations whose scholarship granting activities are at least 85 percent of the organization's activities. Such organizations may satisfy the 90% of income spending requirement solely on the basis of a section 25F segregated account, rather than on the basis of all of the organization's income. The proposed regulations also provide that an SGO is responsible for verifying that the scholarships awarded from qualified contributions it collects are used only to fund qualified elementary or secondary school expenses for eligible students.

To clarify the definition of an eligible student, the proposed regulations provide guidance regarding the definition of household income and family size and clarify that the income limits specified in the statute will be adjusted for family size. The proposed regulations offer various methods SGOs may use to verify that a potential scholarship recipient meets the eligibility criteria set out in the statute, including safe harbors that do not require SGOs to conduct a full, direct verification of recipients' household income. Under these safe harbors, students qualify as eligible to benefit from section 25F scholarship funds if someone in their household already benefits from one of a few specified needs-based benefit programs, if the student attends a school serving students in certain qualified census tracts and receives a scholarship for academic tutoring or special needs services, or if a student has been placed in foster care.

The proposed regulations further clarify the definition of student eligibility by specifying that students are treated as "solely within the State" if the student is a resident of the State under State law, subject to two exceptions. The proposed regulations also provide rules defining a "disqualified person."

The proposed regulations provide reporting and recordkeeping requirements for SGOs, including an annual audit requirement. They also set forth procedures for donors to report and SGO to substantiate the amount of qualified contributions made by the donor during the taxable year.

The proposed regulations ensure that SGOs are able to conduct their scholarship-granting activities with the maximum flexibility permitted under the statute. The proposed regulations clarify that States cannot condition inclusion on the SGO list on any additional requirements more stringent than those specified in the statute and in the proposed regulations; nor can a State exercise discretion over which SGOs are included or excluded from the SGO list. The proposed regulations also prevent States from placing restrictions on the definition of qualified elementary or secondary school expenses.

*A. Baseline*

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations.

*B. Affected Entities and Taxpayers*

The proposed regulations would affect taxpayers who make qualified contributions to SGOs and seek to claim the section 25F credit and students who receive scholarships funded with such contributions. They would also affect the SGOs that solicit qualified contributions and award scholarships from these contributions, as well as the States that may choose to participate in the section 25F credit and, in doing so, assess the eligibility of SGOs and authorize SGOs to facilitate such scholarships.

As of August 2026, 30 States have elected to participate in the section 25F credit. The Treasury Department and the IRS estimate that 600 to 700 SGOs[4] will operate in these States by 2030. The Treasury Department and the IRS also estimate that more than 11 million taxpayers will make qualified contributions totaling $26 billion to these SGOs annually.[5] This is expected to allow the SGOs operating in these States to fund 2 million annual ($12,000)[6] full-time scholarships, or 5 million part-time ($4,500) scholarships, per year by 2030.

*C. Economic Effects of the Proposed Regulations*

In general, the proposed regulations would provide clarity to operationalize the section 25F credit. This clarity is expected to benefit the up to 2 million students who are expected to receive a scholarship annually. Research shows that educational choice can lead to increases in college

[4] This range is based on the average amount of SGOs operating at the State level, in States which have tax credit scholarships. The same amount of SGOs per State is assumed to obtain in each State which opts into the Federal credit.

[5] Estimates are produced using a 10% take-up rate. This projected take-up rate is based on data from the 2023 Panel Study of Income Dynamics, variable ER85243, and estimates of the increased propensity to contribute when directing the expenditure of one's tax dollars. *Li, Sherry Xin, et al. "Directed giving enhances voluntary giving to government." Economics Letters 133 (2015): 51-54.*

[6] The annual amount of $12,000 is a rounded average of the cost to attend one year of private elementary or secondary school in the states which have opted in to the section 25F credit as of August 2026. "Average Private School Tuition Cost", Private School Review for 2026, https://www.privateschoolreview.com/tuition-stats/private-school-cost-by-state, last accessed May 1, 2026. Internal Revenue Service, Federal Scholarship Tax Credit (FSTC). https://www.irs.gov/government-entities/federal-state-local-governments/federal-scholarship-tax-credit-fstc, last accessed August 11, 2026.

enrollment and test scores, particularly for students from economically disadvantaged backgrounds.[7] The students who benefit from the proposed regulations are therefore expected to enjoy an increased probability of completing secondary school and attending college. Because the financial return from each additional year of schooling is approximately 10%,[8] the students who benefit from the proposed regulations are expected to experience a significant increase in lifetime earnings.

The following sections describe in detail the potential economic impacts of certain specific elements of the proposed regulations.

*1. Calculation of tax credit*

Under section 25F(b), the amount of the credit allowed for a taxpayer's qualified contributions is reduced by any State tax credit for such contributions and is limited to a maximum of $1,700. As noted in part II.F. of the Explanation of Provisions, the Treasury Department and the IRS interpret section 25F(b) as limiting the credit to $1,700 after applying the State credit reduction, notwithstanding that the $1,700 limitation in section 25F(b)(1) appears before the State credit reduction in section 25F(b)(2). This interpretation benefits taxpayers by maximizing their ability to claim the section 25F credit if they claim state credits for qualified contributions.

Section 25F(e) states that any qualified contribution for which a section 25F credit is allowed is not to be taken into account as a charitable contribution for purposes of section 170. Section 25F(f) further specifies that the section 25F credit may be carried forward for up to 5 years if the amount of the credit allowable exceeds the taxpayer's tax liability. The proposed regulations provide a stacking order to operationalize these limitations while maximizing the economic benefits for taxpayers relative to an alternative.

Proposed § 1.25F-2(c) provides a clear and taxpayer-favorable methodology consistent with the statutory limitations for calculating the amount of the section 25F credit, beginning with the aggregate amount of qualified contributions. Under the proposed rule, taxpayers must first determine the aggregate amount of qualified contributions for the tax year and then determine which State credits were claimed on the taxpayer's State tax return or otherwise allowed with respect to those qualified contributions. The amount allowable as a credit under section 25F(a) is then the lesser of the aggregate qualified contributions made during the tax year as reduced by any State tax credits allowed for such qualified contributions and $1,700.[9] The proposed rule clarifies that, if a State credit is allowed with respect to an individual's contributions of cash to an SGO that includes both a qualified contribution and an amount that is not a qualified contribution, then the State credit will be treated as first being allowed with respect to the amount of the donor's contribution that is not a qualified contribution and only thereafter treated as being allowed with respect to the donor's qualified contributions to an SGO.

This proposed rule benefits the taxpayer by adopting an ordering rule that preserves the maximum credit available under the statute. To illustrate this benefit, consider an example taxpayer who lives in a State that allows a 100% tax credit of up to $2,000 for contributions to SGOs. Suppose this taxpayer makes a cash contribution of $5,000 to an SGO and designates $1,700 of this contribution as a section 25F qualified contribution. For simplicity, further suppose that this taxpayer does not itemize the taxpayer's Federal deductions.

The proposed regulation allows the taxpayer to count the $3,300 that is not designated as a "qualified contribution" toward the State tax credit (if otherwise eligible). In this example, the taxpayer could then receive $2,000 in State tax credits and the remaining $1,700 of the qualified contribution would qualify for the section 25F credit, without violating the section 25F(e) denial of double benefit requirement. Under the proposed regulations, this contribution would reduce the taxpayer's Federal tax liability by $1,700, and reduce the State tax liability by $2,000, for a total tax benefit of $3,700.

An alternative interpretation of the statute could have instructed the taxpayer to use State credits to reduce the amount of qualified contributions before the amount of non-qualified contributions. Under this alternative, the taxpayer would have been required to reduce their $1,700 qualified contribution to zero, because the taxpayer claimed $2,000 as a credit against State tax liability. Under this alternative, the taxpayer's $5,000 contribution would not reduce the taxpayer's Federal tax liability, but would reduce the State tax liability by $2,000, for a total tax benefit of $2,000.

By adopting this interpretation of the statute, and providing a corresponding ordering rule, the proposed regulations provide the example taxpayer with a net benefit of $1,700 relative to the alternative interpretation referenced in the previous paragraph. Similar benefits would be conferred upon all taxpayers who avail themselves of both a State and a Federal credit for contributions to SGOs. The Treasury Department and the IRS estimate that approximately 46.5 million taxpayers[10] will be eligible to take both a State and a Federal tax credit for contributions to SGOs. At a take-up rate of 10%, this proposed rule is expected to provide a net benefit of at most $1,700 per year to 3.1 million taxpayers, and at most $3,400 per year to an additional 1.55 million married taxpayers.

In addition to the financial benefits that the proposed rule would confer on the taxpayers who claim both Federal and State tax credits for contributions to SGOs, the proposed regulations will benefit all taxpayers by providing clarity regarding the calculation of the credit amount each taxpayer may claim under section 25F. These clarifications will help to preserve

[7] Deming, David J., Justine S. Hastings, Thomas J. Kane, and Douglas O. Stanger. "School choice, school quality, and postsecondary attainment." *American Economic Review* 104.3 (2014): 991-1013; Angrist, Joshua D., Parag A. Pathak, and Christopher R. Walters. "Explaining charter school effectiveness." *American Economic Journal: Applied Economics* 5.4 (2013): 1-27.

[8] Deming, David J. "Four facts about human capital." *Journal of Economic Perspectives* 36.3 (2022): 75-102. Urquiola, Miguel. "Competition among schools: Traditional public and private schools." *Handbook of the Economics of Education.* Vol. 5. Elsevier, 2016. 209-237.

[9] After taking the lesser of these two amounts, the amount allowable as a credit is then augmented by the value of any unused credit carried forward to the tax year from an earlier year.

[10] IRS, Statistics of Income Division, Historic Table 2. Last accessed in July 2026. https://www.irs.gov/statistics/soi-tax-stats-historical-data-tables.

horizontal equity between taxpayers. In the absence of the proposed regulations, taxpayers may encounter difficulty in ascertaining which portions of their contribution are eligible for a given tax credit or deduction. Without further guidance, taxpayers in similar tax situations, who make similar gifts to SGOs, may come to different conclusions about how to maximize the economic benefits from their charitable contributions.

*2. Definition of terms needed to determine student eligibility for scholarships*

The proposed regulations define both income and a family-size adjustment for income. The income definition expands the number of students who would be eligible for a scholarship from an SGO that receives qualified contributions and minimizes compliance burdens relative to alternatives.

Section 25F(c)(2) defines an eligible student as an individual who is a member of a household with a calendar-year income not exceeding 300 percent of the area median gross income, and who is eligible to enroll in a public elementary or secondary school. Section 25F(c)(2)(A) specifies an income limit for potential scholarship recipients. This income limit is set at "300 percent of the area median gross income (as such term is used in section 42)." Section 42(g)(4) provides that "paragraph (2) (other than subparagraph (A) thereof) … of section 142(d) … shall apply for purposes of determining whether any project is a qualified low-income housing project and whether any unit is a low-income unit." Section 142(d)(2)(B)(i) provides a definition of area median gross income as follows:

> "The income of individuals and area median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and area median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size."

*i. Defining a family size adjustment*

The proposed regulations use family size adjustments as defined by the Department of Housing and Urban Development (HUD) to administer lower income housing assistance under section 8 of the United States Housing Act of 1937 (Public Law 75-896) (Section 8 housing); see Table 1 below. Section 25F(c)(2)(A) specifies the income limit used to determine eligibility as "300 percent of the area median gross income (as such term is used in section 42)." 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*$100,000*0.90). For a household of four living in the same area, this income limit would be $300,000 (3*$100,000*1.0).

*Table 1: Current HUD Family size multipliers*

| **Family size** | **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** |
|---|---|---|---|---|---|---|---|---|
| **Multiplier** | 0.70 | 0.80 | 0.90 | 1.00 | 1.08 | 1.16 | 1.24 | 1.32 |

Notes: For each member of the family in excess of 8, the family size multiplier increases by 0.08.

Sources: Methodology for Determining FY 2026 Section 8 Income Limits, last accessed June 11, 2026. https://www.huduser.gov/portal/datasets/il/il26/IncomeLimitsMethodology-FY26.pdf.

Alternative family size adjustments are widely used in a similar fashion to achieve horizontal equity. Other alternatives were not considered for purposes of section 25F, because the statute references the HUD definition of area median gross income, which uses the HUD family size multiplier. The HUD multiplier and potential alternatives all balance adjusting for the higher costs associated with larger family units with the higher returns to scale available to larger family units.

*ii. Defining family size*

The proposed regulations define family size as the number of persons who reside in the same household as the eligible student, including the eligible student. If the eligible student is part of multiple households over the course of the year, the relevant household is the one in which the student resided for the majority of the year. If the student splits time equally among multiple households, the proposed regulation states that the relevant household is the one with the highest household income. This definition is chosen for its consistency with other commonly used definitions of family size. Relative to the alternative of not defining family size, its simplicity is expected to increase administrability and thus alleviate some of the burdens on SGOs and families as they determine which students are eligible to receive a scholarship funded by the section 25F credit.

*iii. Defining Household Income*

Having defined the income limits as a function of area median gross income and family size, the proposed regulations also provide guidelines for determining whether a student's household income exceeds these limits. As the income limits used to determine eligibility for a section 25F scholarship are closely related to those used by HUD in administration of section 8 housing and section 42 relating to the low-income housing credit, a natural candidate for the definition of household income under section 25F would also follow the definition used by HUD for those purposes. The proposed regulations would adopt this definition of income

with one modification: household income includes only cash sources of income, and excludes non-cash sources of income, such as imputed income on net assets. When a family holds net assets of $50,000 or more, and the actual returns of this asset cannot be calculated, the HUD definition of annual income imputes returns on this asset based on the current passbook savings rate.[11] This condition will often prove irrelevant for families who benefit from section 8 housing vouchers or section 42 rent restrictions: the most recent available data indicates that the median renter has a net worth of only $10,400, far below the threshold for imputing returns on net assets. By contrast, the median homeowner has a net worth of $396,000.[12] If the section 25F definition of household income were to conform exactly to the definition used by HUD to provide support to renter households, then many students who reside in owner-occupied households would be rendered ineligible to receive section 25F scholarships due to imputed income on family assets.

By using a definition of income that focuses exclusively on cash income, as opposed to the HUD definition of income, the proposed regulations greatly expand the universe of children who would be eligible to receive a scholarship funded through section 25F. The Treasury Department and the IRS estimate that, under the strict HUD definition, 64 percent of elementary and secondary school age children would be expected to be eligible to receive a scholarship, compared to the 95 percent of children expected to be eligible as a result of the exclusion of non-cash income provided in the proposed regulations.

These proposed regulations also benefit taxpayers and SGOs by reducing the burden placed on SGOs to verify eligible students' incomes: they are able to count only cash sources of income, without being required to augment this value with an imputation of the non-cash income received by a student's family or household.

The Treasury Department and the IRS also considered defining household income as adjusted gross income (AGI) as calculated on Form 1040. This alternative was not chosen for several reasons. First, AGI must be calculated based on the income and marital status of a tax unit. The statute contains references to households and families, rather than tax units. In general, a tax unit may consist of a smaller set of individuals than a household or a family.[13] Second, between 3 and 12 percent of U.S. children are not claimed on Federal tax returns. These unclaimed children are disproportionately concentrated in lower-income households[14] and therefore would likely be eligible to receive a scholarship financed by section 25F contributions if they had been claimed on a tax return. If the proposed regulations were to adopt AGI as the definition of income under section 25F, the proposed regulations would introduce inequities between children who are claimed as dependents on a Federal tax return, and those who are not because of potential claimants having insufficient taxable income to require the filing of a return. The Treasury Department and the IRS estimate that using AGI as the definition of household income would have reduced the number of children eligible to receive scholarships by 17%.[15]

*3. Safe harbor rules for student eligibility*

Section 25F(d)(1)(F)(i) specifies that SGOs must verify students' annual household income and family size to ensure that these students meet these eligibility requirements. The proposed regulations further reduce the administrative burden placed on SGOs associated with income verification by specifying certain safe harbors under which a student may be considered eligible. The proposed regulations include three safe harbors: one for students who live with an individual who receives certain specified types of needs-based social assistance; one for students generally who attend school in certain low-income or high-poverty census tracts and receive a scholarship for academic tutoring or special needs services; and one for students in the foster care system.

First, the proposed regulations specify that, if an individual in a student's household currently benefits from specified needs-based benefit programs, then that student may be considered categorically eligible to receive a section 25F scholarship. The Treasury Department and the IRS estimate that 36% of all students are covered by this safe harbor rule. The Treasury Department and the IRS estimate that the creation of this safe harbor will not change the number of students who are eligible to receive scholarships under section 25F.[16] Rather, the primary economic impact of this safe harbor is to allow SGOs to reduce

[11] 24 CFR 5.609 (2000), last accessed June 11, 2026. https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-F/subject-group-ECFR174c6349abd095d/section-5.609

[12] Aladangady, Aditya, Jesse Bricker, Andrew C. Chang, Sarena Goodman, Jacob Krimmel, Kevin B. Moore, Sarah Reber, Alice Henriques Volz, and Richard A. Windle (2023). *Changes in U.S. Family Finances from 2019 to 2022: Evidence from the Survey of Consumer Finances.* Washington: Board of Governors of the Federal Reserve System, October, https://doi.org/10.17016/8799.

[13] Larrimore, Jeff, Jacob Mortenson, and David Splinter. "Household incomes in tax data: Using addresses to move from tax-unit to household income distributions." *Journal of Human Resources* 56.2 (2021): 600-631.

[14] Gee, Geoffrey, Goldin, Jacob, Gray-Hancuch, Joseph, Lurie, Ithai, and Vedant Vohra. (2026). The Claiming of Children on US Tax Returns. *National Tax Journal*, *79*(1), 51-71. https://doi.org/10.1086/736708

[15] To arrive at this estimate, Treasury and the IRS analyzed data from the American Community Survey, using methodology adapted from the CPS ASEC Tax Model to assign children to eligible tax units. U.S. Census Bureau, 2024 American Community Survey 1-Year Public Use Microdata Sample. https://www.census.gov/programs-surveys/acs/microdata/access.html, last accessed May 11, 2026. Lin, Daniel. "Methods and assumptions of the CPS ASEC Tax Model." US Census Bureau (2022). *https://www.census.gov/content/dam/Census/library/working-papers/2022/demo/sehsd-wp2022-18.pdf*

[16] The Treasury Department and the IRS used Census data from the American Community Survey to measure total household income and household size. Total household income was compared to 300% of area median gross income, as published by HUD. Using these data sources, the Treasury Department and the IRS have estimated that substantially all households with children eligible to attend elementary or secondary school, located in states which have elected to participate in the FSTC, have incomes that fall below the 300% of AMGI limit. U.S. Department of Housing and Urban Development, Office of Policy Development and Research (PD&R). HUD Multifamily Tax Subsidy Project (MTSP) Income Limits. https://www.huduser.gov/portal/datasets/mtsp.html#data_2026, last accessed June 12, 2026. U.S. Census Bureau, 2024 American Community Survey 1-Year Public Use Microdata Sample. https://www.census.gov/programs-surveys/acs/microdata/access.html, last accessed May 11, 2026. Internal Revenue Service, Federal Scholarship Tax Credit (FSTC). https://www.irs.gov/government-entities/federal-state-local-governments/federal-scholarship-tax-credit-fstc, last accessed June 12, 2026. Annual Update of the HHS Poverty Guidelines, 91 Fed. Reg. 1797 (January 15, 2026). https://www.govinfo.gov/content/pkg/FR-2026-01-15/pdf/2026-00755.pdf Last accessed June 15, 2026.

the burden of satisfying the income verification requirement. With fewer hours and dollars devoted to the income verification process, this safe harbor would benefit the taxpayer by allowing a greater share of dollars received by SGOs to be paid out as scholarships. The Treasury Department and the IRS estimate that the cost savings to SGOs enabled by the proposed safe harbor will allow SGOs to fund nearly 45,000 scholarships (estimated using an average annual scholarship amount of $12,000).[17]

Second, the proposed regulations specify that, if an SGO provides scholarships to individual students at a school in a low-income area for individual academic tutoring or for special needs services of a special needs student, and the recipient students are selected by the school on the basis of the particular student's need, the SGO may consider those students as having satisfied the income eligibility requirement if either the school is located in, or at least 80% of students at the school reside in, a qualified census tract. A census tract is designated as "qualified" under section 42 if a sufficiently large number of resident households are low-income or if the poverty rate there is sufficiently high.[18] The Treasury Department and the IRS do not have readily available parameters and models to quantify the number or location of schools that work with SGOs to fund tutoring or other educational services for their students. The Treasury Department and the IRS estimate that the creation of this safe harbor will modestly increase the number of students who are eligible to receive scholarships under section 25F, and that it will facilitate the awarding of scholarships to students whose family may be unlikely to provide sufficient information to allow the SGO to verify the students' household income. This safe harbor would confer eligibility on approximately 170,000 students who would otherwise not be considered eligible. This represents only 0.6% of the estimated number of eligible students, inclusive of this safe harbor.[19] However, this safe harbor is expected to reduce the barriers to take-up faced by students who live in qualified census tracts, or who attend school in a qualified census tract, and thereby increase these students' access to educational resources provided through section 25F scholarships.[20]

Finally, the proposed regulations specify that a foster child is categorically eligible to receive a scholarship under section 25F. Nearly 350,000 school-age children were in the foster care system as of December 2024.[21] The median amount of time a foster child remains in foster care is 15 months,[22] during which time as many as one-third of foster children will experience at least three separate placements.[23] If a child is a transitory resident of several different households over the course of the year, most of which do not reflect the true set of resources available to that child,[24] then an SGO may be uncertain how to verify this child's household income or receive cooperation from all available households. Nevertheless, children in foster care disproportionately come from families with incomes well below 300% of area median gross income, which would make these children eligible to receive a section 25F scholarship.[25] This proposed rule would reduce the administrative burden associated with verifying household income for foster children by reducing any uncertainty the SGO may face in the income verification process. This would further benefit the taxpayer, eligible students, and SGOs by allowing the SGO to reduce expenses on income verification;

[17] As of June 2026, The Work Number charges $46.95 to verify one employer record for the period of one calendar year. If each eligible student lives in a household where the adults collectively have two employer records per calendar year, verifying the sources of household income associated with the scholarship application will cost approximately $100. The proposed safe harbor will reduce these costs for scholarship applications from students who live in states which have elected to participate in the FSTC, and who live with at least one recipient of a means-tested assistance program. The Treasury Department and the IRS analyzed data from the American Community Survey and determined that approximately 6 million households, containing 10 million children between the ages of 5 and 17, meet these criteria. Per EdChoice, 52% of parents would prefer to educate their child at a private school, charter school, or homeschool. If 52% of the children who are eligible to receive section 25F scholarships under this safe harbor apply to an SGO for a scholarship, the cost of conducting employment verifications for all of these applications will be $520 million. If the cost of an average scholarship is assumed to be $12,000 per child, these cost savings are sufficient to cover an average annual scholarship for nearly 45,000 eligible children. "Social Service Verification," Equifax: The Work Number, https://theworknumber.com/solutions/products/social-service-verification, last accessed June 16, 2026; U.S. Census Bureau, *2024 American Community Survey 1-Year Public Use Microdata Sample.* https://www.census.gov/programs-surveys/acs/microdata/access.html, last accessed May 11, 2026; "Monthly Public Opinion Tracker," EdChoice, https://edchoice.mcdatahub.com/edchoice/, last accessed June 16, 2026.

[18] See §42(5)(B)(ii).

[19] To arrive at this estimate, the Treasury Department and the IRS analyzed Census data from the American Community Survey, together with the 2026 list of qualified census tracts published by the Department of Housing and Urban Development. U.S. Department of Housing and Urban Development, Office of Policy Development and Research (PD&R). HUD Multifamily Tax Subsidy Project (MTSP) Income Limits. https://www.huduser.gov/portal/datasets/mtsp.html#data_2026, last accessed June 12, 2026. U.S. Census Bureau, 2024 American Community Survey 1-Year Public Use Microdata Sample. https://www.census.gov/programs-surveys/acs/microdata/access.html, last accessed May 11, 2026. Internal Revenue Service, Federal Scholarship Tax Credit (FSTC). https://www.irs.gov/government-entities/federal-state-local-governments/federal-scholarship-tax-credit-fstc, last accessed June 12, 2026.

[20] These barriers may include, for example, the effort costs associated with learning about the availability of section 25F credit-funded scholarships, finding out about one's own eligibility, and completing the application. Currie, Janet. 2006. "The Take-up of Social Benefits." In *Public Policy and the Distribution of Income* (pp. 80-148). Russell Sage Foundation. https://collaborate.princeton.edu/en/publications/the-take-up-of-social-benefits/; Finkelstein, Amy, and Notowidigdo, Matthew J. 2019. "Take-up and Targeting: Experimental Evidence from SNAP." *The Quarterly Journal of Economics*, *134*(3), 1505-1556. https://doi.org/10.1093/qje/qjz013.

[21] Annie E. Casey Foundation, "Children in Foster Care by Age Group in United States," https://datacenter.aecf.org/data/tables/6244-children-in-foster-care-by-age-group. Last accessed June 16, 2026.

[22] Bald, Anthony, Joseph J. Doyle Jr., Max Gross, & Brian Jacob. (2022). "Economics of Foster Care." *Journal of Economic Perspectives*, *36*(2), 223-246. https://pubs.aeaweb.org/doi/pdf/10.1257/jep.36.2.223.

[23] Annie E. Casey Foundation. 2023. "What impacts placement stability?" https://www.casey.org/media/23.07-QFF-SF-Placement-Stability-Impacts.pdf. Last accessed June 16, 2026.

[24] As of 2019, only 31.94% of children in the foster care system were placed in kinship care. Bald, Anthony, Joseph J. Doyle Jr., Max Gross, & Brian Jacob. (2022). "Economics of Foster Care." *Journal of Economic Perspectives*, *36*(2), 223-246. https://pubs.aeaweb.org/doi/pdf/10.1257/jep.36.2.223.

[25] Berger et al. (2017) reports that the mean income of families who experience a Child Protective Services investigation is $19,142, measured in constant 2009 dollars; the standard deviation of this mean was $12,247. An unusually high-income investigated family, with an income of two standard deviations above the mean, would then have an income of $43,636. This value was less than 300% of the 2009 area median gross income for all 50 states and the District of Columbia. Berger, L. M., Font, S. A., Slack, K. S., & Waldfogel, J. (2017). Income and child maltreatment in unmarried families: Evidence from the earned income tax credit. *Review of Economics of the Household*, *15*(4), 1345-1372. https://link.springer.com/article/10.1007/s11150-016-9346-9. U.S. Department of Housing and Urban Development, Office of Policy Development and Research (PD&R). *HUD Multifamily Tax Subsidy Project (MTSP) Income Limits*. https://www.huduser.gov/portal/datasets/mtsp.html#data_2009, last accessed June 18, 2026.

the Treasury Department and the IRS estimate that the associated savings total nearly $20 million per year and could be redirected toward scholarships for at least an additional 1,500 children.[26]

As a result of the choice to define household income as cash income, and the inclusion of these three safe harbors, the Treasury Department and the IRS estimate that 96% of children located in States that have elected to designate SGOs under section 25F will be eligible to receive section 25F scholarship funds.

*Table 2: Share of Children in States Eligible to Receive 25F Scholarships, by Income Definition*

| Family Size Multiplier | Family Definition | Income Definition | Safe Harbors | Share eligible |
|---|---|---|---|---|
| **No multiplier** | Tax unit | Adjusted Gross Income | None | 79% |
| **No multiplier** | Family | All | None | 64% |
| **HUD family size multipliers** | Family | All | None | 65% |
| **HUD family size multipliers** | Household | All | None | 64% |
| **HUD family size multipliers** | Household | Cash only | None | 95% |
| **HUD family size multipliers** | Household | Cash only | Categorical eligibility, qualified census tracts, foster care | 96% |

Notes: Denominator includes all children ages 5 to 17 who reside in States that have made advance elections to participate in the section 25F credit as of July 2026.

Sources: U.S. Department of Housing and Urban Development, Office of Policy Development and Research (PD&R). HUD Multifamily Tax Subsidy Project (MTSP) Income Limits. https://www.huduser.gov/portal/datasets/mtsp.html#data_2026, last accessed June 12, 2026. U.S. Department of Housing and Urban Development, Office of Policy Development and Research (PD&R). Qualified Census Tracts (QCT) Data. https://www.huduser.gov/portal/datasets/qct.html, last accessed June 12, 2026. U.S. Census Bureau, 2024 American Community Survey 1-Year Public Use Microdata Sample. https://www.census.gov/programs-surveys/acs/microdata/access.html, last accessed May 11, 2026. Internal Revenue Service, Federal Scholarship Tax Credit (FSTC). https://www.irs.gov/government-entities/federal-state-local-governments/federal-scholarship-tax-credit-fstc, last accessed June 12, 2026. Feenberg, Daniel, and Elisabeth Coutts, (1993). "An introduction to the TAXSIM model." Journal of Policy Analysis and Management, 12(1), 189-194. https://taxsim.nber.org/taxsim35/, last accessed June 29, 2026. Steven Ruggles, Sarah Flood, Matthew Sobek, Daniel Backman, Grace Cooper, Julia A. Rivera Drew, Stephanie Richards, Renae Rodgers, Jonathan Schroeder, and Kari C.W. Williams. IPUMS USA: Version 16.0 [dataset]. Minneapolis, MN: IPUMS, 2025. https://doi.org/10.18128/D010.V16.0. Lin, Daniel, (2022). "Methods and assumptions of the CPS ASEC tax model." US Census Bureau. https://www.census.gov/content/dam/Census/library/working-papers/2022/demo/sehsd-wp2022-18.pdf, last accessed June 29, 2026.

*4. Safe harbor rules for income and spending requirements faced by SGOs*

Under section 25F(d)(1)(B), SGOs are required to spend no less than 90% of the income of the organization on scholarships for eligible students. This would be a binding constraint for most SGOs. The proposed regulations would clarify the definition of "income of the organization" and provide several safe harbor rules which would allow for greater participation by SGOs and more scholarships for eligible students. In particular, the proposed regulations would allow the income spending requirement to be satisfied at the level of the section 25F segregated account provided that at least 85 percent of the SGO's activities are scholarship granting activities. This proposed regulation would allow SGOs to spend more than 10% of their income on overhead or other expenses if such income is not part of the section 25F segregated account.

The Treasury Department and the IRS estimate that, among the SGOs currently authorized to administer State-level scholarship programs, program-related expenditures represented 78% of total revenues, on average, in fiscal year 2024. Analysis of Form 990-series data reveals that 72% of existing SGOs spend less than 90% of revenue on program-related expenditures. These program-related expenditures include, but are not limited to, scholarship disbursements. Therefore, nearly three-quarters of SGOs—approximately 450 SGOs in participating States—are expected to benefit from this provision.

The Treasury Department and the IRS expect that the downstream effect of this proposed rule will be a function of its impact on the aggregate flow of donations to SGOs. The proposed rule would have two types of economic effects: the first would increase the number of SGOs, while the second would reduce the contributions made to each individual SGO.

First, the proposed regulation is expected to increase the number of SGOs able to operate under section 25F. In the absence of the regulation, nearly 75% of SGOs would need to make substantial changes to their operations, and many might choose not to be certified as an

[26] This estimate again assumes $100 per income verification and a take-up rate of 52%. These values are multiplied by the approximately 350,000 children in foster care and then divided by the $12,000 assumed average cost of a scholarship to arrive at the estimated number of additional scholarships that could be provided with the savings enabled by the proposed regulations.

SGO at all.[27] The Treasury Department and the IRS do not have readily available parameters and models to assess precisely the number of public charities that would decline to operate as SGOs in the absence of the regulation; however, a conservative estimate suggests that as many as 450 public charities would find the 90% of income rule too burdensome and difficult to satisfy to justify seeking SGO status.[28] As charitable donations tend to rise with the number of public charities,[29] this first effect of the regulation should tend to increase the volume of scholarship dollars available to students. Given the conservative estimate of the effect of this regulation on the number of public charities applying to operate as SGOs, the Treasury Department and the IRS estimate that, in the absence of this proposed regulation, SGOs would receive 18% fewer qualified contributions. The proposed regulation is estimated to benefit SGOs and eligible students by increasing qualified contributions by $4 billion per year.[30]

A second effect of the proposed regulation follows from donors' documented sensitivity to overhead costs.[31] For the minority of organizations expected to operate as SGOs in the absence of the proposed regulation, the Treasury Department and the IRS estimate that this proposed regulation will increase the overhead ratio by 125%.[32] This should translate into a 29% reduction in flows of donations to the estimated 28% of public charities that would operate as SGOs regardless of the proposed regulation.[33] However, the Treasury Department and the IRS anticipate that the reduction in giving to this subset of SGOs would be a reallocation of qualified contributions across the full set of SGOs.

On net, the proposed regulations would therefore benefit students by increasing the flow of qualified contributions available to fund scholarships by up to an estimated $3 billion per year, thus expanding the set of scholarship recipients by approximately 250,000 each year.[34] The proposed regulations would also benefit the donor by expanding the number and variety of organizations available to them as appropriate recipients of their qualified contributions.

*5. Rules concerning State elections*

Sections 25F(c) and 25F(g) describe the role that States play in facilitating the provision of scholarship funds through SGOs. In particular, States may elect to participate in section 25F and thus become a "covered State." Covered States must submit a list of SGOs to the IRS. This list must consist of all SGOs in that State that meet the requirements outlined in section 25F(c)(5). The statute defines an SGO as a public charity which also must satisfy additional requirements.

The proposed regulations would further detail the responsibilities incurred by covered States with respect to the State SGO list. They require that the State certify that each SGO meets the requirements outlined in section 25F(c)(5) and specify that this certification process includes State review of the SGO's financial information and program activities. The proposed regulations would require State officials to have policies enabling them to detect and respond to misuse of scholarship funds, including duplication of scholarship awards. If this process were to reveal that an SGO currently included on the State SGO list has failed to meet the requirements set forth in section 25F(c)(5), the proposed regulations would allow the State to remove an organization from its SGO list for the current year. Contributions made after the date of removal from the State SGO list would not be treated as qualified contributions under section 25F, except to the extent a taxpayer may rely on the IRS SGO list. Alternatives to these proposed rules would be to disallow contributions made at any time during the year of removal (thus depriving taxpayers otherwise entitled to the credit for a qualified contribution) or allowing contributions made during the entire year, even after the SGO became disqualified.

These proposed regulations would benefit the taxpayer by assigning responsibility to the States for ensuring that SGOs comply with the requirements of section 25F. The State is responsible for the State SGO list and for ensuring that the SGOs on its list comply with the requirements of section 25F, including that the SGO be located in the State. States regulate entities that are located in their State and, as the statute requires that States administer the State SGO lists, States are best positioned to determine that the SGO is located in the State, and scholarship funds must be disbursed to students located in the State. By explicitly adding enforcement of section 25F(c)(5) requirements to the set of responsibilities held by States, the proposed regulations ensure that SGO compliance will be monitored by entities that already have the infrastructure in

[27] The Treasury Department and the IRS assume that, in the absence of a requirement to spend no more than 10% of income on scholarship disbursements, SGOs would choose the allocation of their expenditures to best serve their intended beneficiaries: the children and families who apply for, or receive, scholarships. This unconstrained allocation may result in a greater share of expenses spent on the costs of administering scholarship funds. This assumption follows the Weak Axiom of Revealed Preference: Samuelson, Paul A. "A Note on the Pure Theory of Consumer's Behaviour." *Economica* 5.17 (1938): 61-71.

[28] This figure approximates 75% of the 600-700 SGOs ultimately anticipated to operate.

[29] Gayle, Philip G., Teresa D. Harrison, and Jeremy Thornton. "Entry, donor market size, and competitive conduct among nonprofit firms." *International Journal of Industrial Organization* 50 (2017): 294-318.; Schmitz, Jan. "Is charitable giving a zero-sum game? The effect of competition between charities on giving behavior." *Management Science* 67.10 (2021): 6333-6349.

[30] Per Table 2 of Schmitz (2021), when the number of charities in the market increases by 1%, total giving rises by 0.245%. In the absence of the proposed regulations, the set of SGOs is expected to contract by nearly 75%. The Treasury Department and the IRS therefore estimate that total giving to SGOs would fall by 18% in the absence of the proposed regulation.

[31] Gneezy, Uri, Elizabeth A. Keenan, and Ayelet Gneezy. "Avoiding overhead aversion in charity." *Science* 346.6209 (2014): 632-635; Meer, Jonathan. "Are overhead costs a good guide for charitable giving?." *The Fundraising Reader*. Routledge, 2023. 314-318.

[32] Note that the overhead ratio is here defined as the share of income devoted to non-program-related spending: for the set of SGOs operating as of fiscal year 2024, analysis of Form 990 series data places the overhead ratio at 22.45%.

[33] The Treasury Department and the IRS arrive at this figure by applying an elasticity of charitable giving with respect to its efficiency price, and noting that the efficiency price of giving can be stated as a function of the overhead ratio. Meer, Jonathan. "Effects of the price of charitable giving: Evidence from an online crowdfunding platform." *Journal of Economic Behavior & Organization* 103 (2014): 113-124.

[34] This figure assumes each recipient receives an average assumed scholarship amount of $12,000 per year.

place to ensure charitable organizations comply with applicable State charitable law. This represents an efficiency gain to the taxpayer.[35] As the proposed regulations direct State officials to examine SGO financial records for the SGO's compliance with the section 25F requirements and for SGO-specific forms of fraud, these proposed rules are expected to benefit the taxpayer by reducing opportunities for waste, fraud, and abuse in the provision of section 25F scholarships. The Treasury Department and the IRS do not have readily available parameters or models to estimate the extent of these benefits.

As SGOs are section 501(c)(3) public charities, many SGOs will be required to file a Form 990-series return. The proposed regulations would add a new form on which an SGO must report information on its activities including the number of scholarship applicants, the number of scholarship recipients, the number of schools at which the SGO's scholarship recipients were enrolled, the dollar amount of the scholarships, and the categories of qualified elementary and secondary expenses for which scholarship funds were used. These metrics, which are detailed in § 1.25F-4(d)(3) of the proposed regulations, can be used by States to verify that a particular SGO meets the requirements of section 25F(c)(5) and (d)(1). The Treasury Department and the IRS estimate the reporting requirements will cost nearly $45,000, in the aggregate, each year.[36]

This proposed regulation would benefit the taxpayer by reducing uncertainty about whether the taxpayer's contributions qualify for the section 25F credit. The proposed regulations state that, in general, a taxpayer may rely on the fact that an organization is listed on the IRS SGO list at the time a contribution is made to establish that the taxpayer's contribution is being made to an SGO.[37] By empowering States with the ability to remove noncompliant SGOs in the middle of the year and providing guidelines for whether contributions made to SGOs which fall into non-compliance qualify for the section 25F credit, the proposed regulations reduce one major source of uncertainty taxpayers might have faced as they select which SGOs to support.

In the absence of the proposed regulations on SGO accountability, the resulting uncertainty would be expected to reduce the flow of contributions to SGOs.[38] The Treasury Department and the IRS do not have a precise estimate of the extent of the counterfactual reduction in qualified contributions to SGOs.

*6. Rules concerning SGO certification*

Section 25F(g)(1)(A) requires that a State's SGO list must include all SGOs located in the State that meet the requirements described in section 25F(c)(5). The proposed regulations guarantee the freedom of individual SGOs to offer funding for any type of qualified elementary or secondary school expense. That is, an SGO may choose to specialize in providing one type of qualified expense – e.g., academic tutoring for qualified students in public schools – but the State cannot condition inclusion on the SGO list on the State's approval of such a choice. In the absence of this proposed regulation, the scope of the benefits a qualified student could derive from scholarships awarded from contributions eligible for the section 25F credit would depend on the student's State of residence. This follows from the requirement that SGOs must provide scholarships only to eligible students within the State where the SGO is located. The proposed regulation therefore benefits students by ensuring that States cannot limit the types of benefits that can be made available to eligible students. In particular, the inclusivity requirement is anticipated to broaden school choice, enabling students to attend schools that best match their needs, thus maximizing the lifetime benefits that will accrue to the students as a consequence of receiving a section 25F scholarship.[39] The Treasury Department and the IRS do not have the models or data to estimate the effects of this inclusivity requirement but expect that it will have broad benefits for many students, taxpayers, and SGOs.

The proposed regulations also provide States with a procedure for when an organization's application for recognition of tax-exempt status is pending with the IRS, as well as a roadmap for evaluating whether an SGO meets the criteria for inclusion on the State SGO list when the organization has not yet been required to provide information and certifications to the IRS. Furthermore, the proposed regulations provide a transition rule, specifying a deadline for States to submit their SGO lists for calendar year 2027, the first year of the section 25F credit. These rules benefit the taxpayer by removing barriers to entry for SGOs.

*7. Defining location of an SGO within the State*

Section 25F(c)(5)(D) requires that, for a tax-exempt charitable organization to be an SGO for purposes of section 25F, the organization must be included on the list of SGOs submitted to the IRS by a covered State for the applicable year. Section 25F(g)(1) requires that this SGO list be limited to organizations that are "located in the State." However, the statute does not offer any definitions or guidelines that would help States or SGOs determine whether a particular organization is

[35] An alternative would have been to create a new oversight body to monitor SGO compliance, or to assign oversight to an existing Federal entity. If these alternative organizations do not already have the infrastructure in place to conduct oversight activities, then they would need to incur fixed costs associated with creating this infrastructure. These startup costs are avoided by assigning oversight duties to entities which already handle compliance for tax-exempt organizations.

[36] This figure encompasses costs expected to be incurred by all SGOs as a group, each year.

[37] The proposed rules also lay out specific exceptions to this general rule. If, at the time of the contribution, the taxpayer had knowledge that the recipient organization did not satisfy the requirements of being an SGO or was at least in part responsible for, or was aware of, the act, the failure to act, or the substantial and material change on the part of the organization that gave rise to the removal of the organization from the IRS SGO list, then taxpayer cannot rely on the fact that the SGO is on the IRS SGO list to establish that the organization is an SGO.

[38] A straightforward extension of Alm (1988) shows that an increase in the uncertainty of a tax credit rate can result in reduced expenditure on the creditable good. The extent of this reduction depends on the nature of taxpayers' preferences. Alm, James. 1988. "Uncertain tax policies, individual behavior, and welfare." *The American Economic Review*, *78*(1), 237-245. https://www.jstor.org/stable/pdf/1814712.pdf

[39] Deming, David J., Justine S. Hastings, Thomas J. Kane, and Douglas O. Stanger. "School choice, school quality, and postsecondary attainment." *American Economic Review* 104.3 (2014): 991-1013; Angrist, Joshua D., Parag A. Pathak, and Christopher R. Walters. "Explaining charter school effectiveness." *American Economic Journal: Applied Economics* 5.4 (2013): 1-27.

located in the State. The proposed regulations provide that an organization is located in the State if it is authorized to do business in the State and complies with the laws and requirements for charitable organizations in the State. The proposed regulations also provide a framework for SGOs to operate in multiple States at once. These SGOs are referred to as "multistate SGOs" and must maintain a separate section 25F segregated account for each State that includes the organization on its State SGO list.

The proposed regulations would enable SGOs that currently operate in multiple States to facilitate the provision of scholarships using qualified contributions without establishing a separate legal structure for each State in which they operate. By allowing an organization to operate as a multistate SGO, the proposed regulations effectively increase the size of the market that each SGO is able to serve. Instead of limiting each organization to competing to serve the aggregate demand for scholarship funds in a single State, all organizations are free to compete to serve the aggregate demand for scholarship funds in all States that have elected to participate in the section 25F credit. Because charitable organizations may respond to private incentives when deciding whether to enter a market, and such organizations have been shown to value the ability to take credit for providing social benefits, the absence of a multistate rule could produce an inefficiently large number of providers in each State, and all providers will end up inefficiently small.[40] By expanding each SGO's market size, the proposed regulations would induce a less-than-proportional increase in the number of SGOs. This will benefit taxpayer contributors by reducing inefficient over-entry among SGOs. The Treasury Department and the IRS do not have readily available models or parameters to assess the extent of the increase, generated by the proposed regulation, in market efficiency among SGOs; however, the increase in efficiency is expected to be significant. As of 2026, 11 SGOs operate in multiple States.

*8. Defining a student solely within the State*

Section 25F(c)(3) defines a qualified contribution as a contribution to an SGO using that contribution to fund scholarships for eligible students solely within the State. The statute does not provide a definition of "solely within the State." The proposed regulations would define this term, benefiting eligible students and the SGO by providing clarity with regard to its meaning. Section 1.25F-3(c)(7) of the proposed regulations would clarify that "solely within the State" refers to the residency of the student, rather than the location where the student attends school or otherwise procures the items or services paid for with scholarship funds. A student's residency must be determined in accordance with State law. If a student is a resident of a State that is not a covered State but attends school in a covered State, these proposed regulations would prevent that student from receiving a section 25F scholarship from an SGO located in either State.[41] The Treasury Department and the IRS are not aware of any data that would identify the number of students who have this fact pattern. However, it is expected that the choice to use residency, rather than school attendance or location of item or service provision, to determine location within the State will result in a reallocation of section 25F scholarships among eligible students, leaving the overall number of scholarship recipients unchanged. This aspect of the proposed regulations will therefore have a minimal effect on elementary and secondary student outcomes, or economic growth in general.

The proposed regulation provides two exceptions to this residency rule. First, students who are dependents of a member of the Armed Forces may be treated for this purpose as a resident of both the State in which the student is domiciled and the location where the member of the Armed Forces resides. As of 2024, military families included approximately 821,500 school-age children, roughly 480,000 of whom are in families with at least one active-duty service member.[42] In the same year, 7% of active-duty spouses reported living apart from their Armed Forces member spouse for reasons not related to deployment.[43] The Treasury Department and the IRS are not aware of any data that would help to determine how many of these families have at least one member located in a covered State. The Treasury Department and the IRS estimate that, using the above figures, this proposed exception to the residency rule will benefit as many as 33,600 students per year.[44]

The second exception to this proposed residency rule concerns students who are dependents of an individual residing on Indian Lands. This proposed exception to the residency rule would treat such students as residents of both the State of the student's residence and the State in which the student attends school. The Treasury Department and the IRS estimate that this proposed exception to the residency rule will benefit as many as 6,200 students per year.[45]

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[40] Lapointe, Simon, Carlo Perroni, Kimberley Scharf, & Janne Tukiainen. 2018. "Does market size matter for charities?" *Journal of Public Economics*, *168*, 127-145. https://doi.org/10.1016/j.jpubeco.2018.10.003

[41] Conversely, if an otherwise eligible student is a resident of a covered State but attends a school in a state that is not a covered State, these proposed regulations would not restrict that student's ability to receive a section 25F scholarship.

[42] U.S. Department of Defense, Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy. 2024. "2024 Demographics Profile of the Military Community." https://www.militaryonesource.mil/data-research-and-statistics/military-community-demographics/2024-demographics-profile/.

[43] U.S. Department of Defense, Office of People Analytics. 2024. "2024 Active Duty Spouse Survey." https://download.militaryonesource.mil/12038/MOS/Presentations/2024-active-duty-spouse-survey-full-briefing.pdf.

[44] This estimate multiplies the 7% of active-duty spouses living separately from their servicemember spouse by the number of children in military families which include at least one active-duty service member. It represents an upper bound on the possible number of beneficiaries of this policy, assuming that within each of the active-duty military families where spouses live apart, all spouses live in separate states; and furthermore, that the active-duty service member lives in a non-covered state while the spouse lives in a covered state.

[45] The Bureau of Indian Education operates some off-reservation boarding schools and dormitories. As of fiscal year 2027, these schools and dormitories are expected to serve nearly 6,200 students per year. The Treasury Department and the IRS are not aware of any data which would provide insight into how many of these students attend school in a different state from their state of residency; nor are they aware of another data source which would better reflect the number of students who live on Indian Lands but attend elementary or secondary school elsewhere. U.S. Department of the Interior, Bureau of Indian Education. "Tribally Controlled Schools." https://www.bie.edu/topic-page/tribally-controlled-schools, last accessed June 18, 2026. U.S. Department of the Interior, Bureau of Indian Education. 2026. "Budget Justifications and Performance Information, Fiscal Year 2027." https://www.doi.gov/sites/default/files/documents/2026-04/fy2027greenbookbie_0.pdf.

*9. Disqualified person rules*

Section 25F(d)(2) includes a prohibition on self-dealing by SGOs and requires that a "disqualified person shall be determined pursuant to rules similar to the rules of section 4946." The proposed regulations articulate the application of "rules similar to the rules of section 4946."

As in section 4946, the proposed regulations state that substantial contributors and members of their families are considered disqualified persons, and that a substantial contributor is any person who contributed an aggregate amount of more than $5,000 to the SGO during the taxable year, if such amount is more than 2 percent of the total contributions received by the SGO during the taxable year. In addition, the proposed regulations provide that any person who contributed an aggregate amount of more than $5,000 to a section 25F segregated account during the taxable year, if such amount is more than 2 percent of the total contributions received by the section 25F segregated account during the taxable year, is also a substantial contributor. An individual is treated as making all contributions made by his or her spouse, and substantial contributor status is determined as of the close of each taxable year of the SGO.

To prevent inadvertent violations in which an SGO awards a scholarship to a student who later becomes a disqualified person, the proposed regulations provide that a scholarship awarded by an SGO to a substantial contributor or a substantial contributor's family member will not be treated as an award to a disqualified person if, at the time the scholarship was awarded, the recipient would not have been a disqualified person had the substantial contributor determination been made as of the date of the award, based on contributions received by the SGO through that date; and the SGO did not know and did not reasonably expect that the recipient would be a disqualified person, based on the substantial contributor determination made as of the close of the taxable year.

Consistent with section 4946, the proposed regulations state that officers, directors, trustees, and individuals with similar powers and responsibilities are disqualified persons, along with members of their families.

The proposed regulations also provide that any individual participating in, including as a member of a committee, the selection of scholarship recipients or the determination of scholarship awards, and members of their families, are considered disqualified persons.

These proposed regulations would benefit SGOs by providing clarity regarding the rules prohibiting self-dealing. The Treasury Department and the IRS estimate that these proposed rules will affect between 70,000 and 80,000 disqualified persons per year.[46] These proposed rules are anticipated to have minimal direct economic effects but will help to preserve the integrity of the section 25F scholarships and ensure that scholarships are granted and funds are spent in a manner consistent with the statute.

*10. Audit requirements*

Section 25F(d) sets forth a set of operational requirements for SGOs. Section 1.25F-4(e) of the proposed regulations would specify that each SGO must undergo an annual third-party financial and programmatic audit. The results of this audit would then be furnished to the State or States in which the SGO is located. This requirement will benefit States by improving the consistency and quality of the information available to them as they consider whether the organization meets the requirements for SGOs outlined in section 25F(d). For SGOs whose total receipts exceed $500,000, the audits must be conducted by an external, independent professional or accredited body; for SGOs whose total receipts do not exceed $500,000, the audit may be conducted by a committee of independent persons unrelated to the SGO's management.

The Treasury Department and the IRS estimate that audit costs faced by an SGO may range between $10,000 and $30,000 annually. Approximately 53% of SGOs are estimated to exceed the $500,000 receipts threshold; these organizations will consequently pay higher audit costs of approximately $30,000 per year. The remaining 47% of SGOs are estimated to fall below the receipts threshold and therefore pay audit costs closer to $10,000 per year.[47] The total amount of SGO receipts used to satisfy these audit costs is therefore expected to fall between $12 million and $15 million per year. Assuming an average scholarship amount of $12,000 per year, these funds could alternatively have financed scholarships for between 1,000 and 1,250 eligible students per year, assuming that all SGOs comply with their spending requirements in the absence of the audit requirement. The Treasury Department and the IRS expect that the audit requirement will protect the integrity of section 25F against waste, fraud, abuse, and improper use of funds.

As audit costs are likely to be higher for SGOs with total receipts over $500,000, the Treasury Department and the IRS anticipate that some SGOs with receipts near this threshold may refer potential donors to another SGO for a given year, so that the SGO can avoid incurring the higher audit cost.[48] The Treasury Department and the IRS estimate that the amount of contributions redirected to another SGO to avoid incurring excess audit costs would range from approximately $1.9 million to $2.2 million per year. However, the Treasury Department and the IRS do not anticipate that these donations would be lost; they are instead expected to accrue to organizations whose receipts far exceed, or fall far short of, the audit threshold. This economic effect of the tiered structure of the audit requirement may affect the distribution of eligible students who ultimately receive scholarship funds under section 25F, but is not anticipated to affect the number of eligible students receiving scholarships or the amount of the scholarship.

[46] To arrive at this figure, the Treasury Department and the IRS analyzed Form 990 information returns filed by organizations that provided scholarships as of tax year 2023.

[47] To arrive at these figures, the Treasury Department and the IRS analyzed the distribution of total receipts among currently operating organizations that provided scholarships, as reported on the Form 990.

[48] St. Clair, Travis. "How do nonprofits respond to regulatory thresholds: Evidence from New York's audit requirements." *Journal of Policy Analysis and Management* 35.4 (2016): 772-790.

*11. Pass-through entities rule*

Section 25F specifies that individual taxpayers who are citizens or residents of the United States may claim credits for qualified contributions to SGOs. The proposed regulations address the question of whether an individual can claim a section 25F credit for qualified contributions made by a pass-through entity in which the individual has an interest. The Treasury Department and the IRS interpret the statute as applying to individual taxpayers. Consequently, the proposed regulations provide that section 25F credits are allowed for qualified contributions made directly by individual taxpayers but are not allowed for qualified contributions made indirectly through pass-through entities. This proposed rule is expected to reduce aggregate contributions made to SGOs, relative to a no-action baseline. The Treasury Department and the IRS do not have readily available models or parameters to assess precisely the amount of foregone contributions associated with this proposed rule. However, because pass-through entities have the alternative of distributing cash to their partners or shareholders, who in turn could contribute directly to SGOs, these effects may be small.

*12. Reporting and substantiation of qualified contributions*

Section 25F(h) states that "[t]he Secretary shall issue regulations or guidance … with respect to recordkeeping or information reporting for purposes of administering the requirements of this section." To facilitate administration of the section 25F credit, the proposed regulations would require SGOs to issue donors a timely written acknowledgement, no later than January 31 of the calendar year following the calendar year in which a donor made a qualified contribution to the organization. The acknowledgement would need to contain information including the total amount of contributions made by the donor to the organization during the calendar year that the donor designated as qualified contributions and the unique donor number the organization created for the donor. The proposed rules would further require SGOs to report to the IRS through the SGO portal information with respect to each unique donor number assigned by the organization and information about the donor to whom that number was issued, including the donor's name, address, and the amount of the qualified contributions provided by the donor during the calendar year. A taxpayer who claims the section 25F credit on the taxpayer's Federal income tax return would need to substantiate the credit on Form 8525, *Federal Scholarship Tax Credit* (or successor form), by reporting such information as may be required in the form instructions, including, for each SGO to which the taxpayer has made a qualified contribution during the taxable year, the unique donor number that the SGO was required to provide as part of a timely written acknowledgement. This reporting by SGOs and taxpayers facilitates the administration of section 25F credits by assisting the IRS in identifying potentially improper credit claims. The use of the donor number avoids the need to have SGOs collect and report each donor's taxpayer identification number, such as a social security number.

As SGOs are section 501(c)(3) charitable organizations, these organizations are already required to provide a contemporaneous written acknowledgment for contributions of $250 or more and may be required to report information concerning certain substantial contributors to the IRS.[49] The proposed reporting requirement represents a relatively minor extension of these organizations' existing reporting responsibilities. As such, the proposed rule is expected to impose only minimal additional costs on SGOs.

This proposed reporting requirement will benefit the taxpayer by reducing a major source of waste, fraud, and abuse in credit claiming, while avoiding any unnecessary exposure of taxpayers' Federal tax information that could arise if the SGO were to require some other form of donor identification, such as a taxpayer identification number. The Treasury Department and the IRS do not have readily available models or parameters to precisely assess the extent of the waste, fraud, and abuse that would be prevented by this proposed regulation. However, the Treasury Department and the IRS anticipate that the benefits to the integrity of section 25F will outweigh the minimal additional costs imposed by the reporting requirements.

[49] IRS Publication 526, https://www.irs.gov/pub/irs-pdf/p526.pdf.

*Summary of Costs and Benefits*

| | Benefits | | Costs | |
|---|---|---|---|---|
| Aspects of the Proposed Regulation | Counts | Amounts | Counts | Amounts |
| a. Calculation of tax credit | 4.7 million donors will derive a financial benefit, annually; all taxpayers benefit from clarity | Affected donors will enjoy a reduced tax burden of up to $11 billion annually, in the aggregate | * | * |
| b. Definition of terms needed to determine student eligibility for scholarships | Approximately 9 million students rendered eligible to receive a 25F scholarship, annually | The proposed regulation will not change the dollar value of scholarships granted, only the volume of applicants. | * | * |
| c. Safe harbor rules for student eligibility | Approximately 170,000 students rendered newly eligible to receive a 25F scholarship, annually; 45,000 students whose scholarships can be funded using saved funds, annually | $540 million in saved eligibility verification costs, annually. | * | * |
| d. Safe harbor rules for income and spending requirements faced by SGOs | 450 additional SGOs relative to the alternative, annually; 250,000 additional scholarship recipients relative to the alternative, annually | $4 billion additional funds donated to SGOs each year | * | * |
| e. Rules concerning State elections | All donors | Moderate increases in contributions | * | * |
| f. Rules concerning SGO certification | All donors | Moderate increases in contributions | * | * |
| g. Defining location of an SGO in the State | All SGOs and scholarship recipients | Significant increases in market efficiency | * | * |
| h. Defining a student within the State | 40,000 students rendered eligible to receive a 25F scholarship annually | The proposed regulation will not change the dollar value of scholarships granted, only the volume of applicants. | * | * |
| i. Disqualified person rules | All scholarship recipients | Minimal impact | 70,000-80,000 disqualified persons | Minimal impact |
| j. Audit requirements | All scholarship recipients | The proposed regulation will facilitate section 25F credit integrity and proper use of funds. | Funds equivalent to approximately 1,000 to 1,250 annual scholarships | Between $12 million and $15 million per year |
| k. Partnerships rule | * | * | All pass-through entities and their partners or shareholders | Modest impact |
| l. Reporting and substantiation of qualified contributions | 600-700 SGOs and 11 million donors per year | The proposed regulation will facilitate section 25F credit integrity and proper use of funds. | 600-700 SGOs per year | Minimal impact |

* The Treasury Department and the IRS do not have the data or models to precisely determine the indicated effects.

## II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

The collections of information in these proposed regulations contain reporting, third-party disclosure, and recordkeeping requirements for States, SGOs, taxpayers, and students. Therefore, the likely respondents are State governments, tax-exempt organizations, and individuals. The collection requirements are necessary to administer the section 25F credit for contributions to SGOs. The collections of information generally would be used by the States to be able to identify and certify SGOs in the State; by SGOs to provide information to donors to enable them to qualify for the credit; by SGOs to report on their compliance with the rules of the statute to the IRS; by donors to allow them to report and take the credit on their Federal income tax return; and by the IRS to administer the credit to ensure that only qualified contributions give rise to the tax credit.

### *A. Collection requirements applicable to States*

The collections of information applicable to States can be grouped into three categories: (1) registering through the IRS State section 25F portal; (2) electing to participate under section 25F, and (3) submitting the State SGO list and required certifications about the SGOs and the State's policies for certifying SGOs.

#### 1. *State registration*

Proposed § 1.25F-5 would provide rules under section 25F(g) for a State's election to participate under section 25F and the State's identification and certification of organizations located in the State that are SGOs. Proposed § 1.25F-5(b) describes the IRS State section 25F portal used for the submission of State elections and State SGO lists.

Proposed § 1.25F-5(b)(1) would require a State that chooses to make an election to participate under section 25F to obtain a special-purpose EIN under the procedures in proposed § 1.25F-5(b)(3) and complete a registration process under the procedures in proposed § 1.25F-5(b)(4) on *https://www.irs.gov* to electronically transmit information through the IRS State section 25F portal.

A State will use the IRS State section 25F portal to submit the State election and State SGO list and required certifications and information. To complete its registration, proposed § 1.25F-5(b)(4) would require a State to provide the special-purpose EIN, contact information for the State, and any other information the IRS deems necessary for purposes of administering the requirements of section 25F. The burden associated with State registration and obtaining a special-purpose EIN was approved by the OMB under 1545-2335 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

#### 2. *State election to participate*

Proposed § 1.25F-5(c) would provide rules for State elections. As part of providing an election and the State SGO list, the State would need to provide certain certifications and other required information as described in proposed § 1.25F-5(c)(5), which includes the information and certifications required by proposed § 1.25F-5(d)(2) through (5) for each organization on the State SGO list and a certification that the State SGO list includes every organization located in the State that is described in section 25F(c)(5)(A) and (B), is seeking inclusion on the State SGO list and is operating in a manner that satisfies the operational requirements in section 25F(d) and proposed § 1.25F-3(c) and the applicable State requirements described in proposed § 1.25F-5(e)(1). The State election and its associated burden were approved by the OMB under 1545-2335 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

#### 3. *State submission of State SGO list and required certification*

The collection of information in proposed § 1.25F-5 includes recordkeeping requirements related to the section 25F credit. A State will use these records to submit its State SGO list and the required certifications and other information. These recordkeeping requirements are considered general tax records under § 1.6001–1(e). For PRA purposes, general tax records and their associated burdens are already approved by OMB under control number 1545–0047 for tax-exempt organizations and governmental entities.

Proposed § 1.25F-5(d)(1) would require a State to provide its State SGO list and include the information and certifications required under proposed § 1.25F-5(d)(2) through (5) as part of its State election. Proposed § 1.25F-5(d)(6) would require a State to provide a certification regarding its policies and procedures for determining whether an organization is an SGO. Proposed § 1.25F-5(d)(7)(iii)(B) would provide rules for a State's removal of an SGO from the State SGO list. Proposed § 1.25F-5(e) would provide general guidance regarding the policies and procedures States adopt for SGOs and Federal review of such policies and procedures. The submission of the State SGO list and required certification, and its associated burden, was approved by the OMB under 1545-2335 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

### *B. Collection requirements applicable to SGOs*

The collections of information applicable to SGOs can be grouped into three categories: (1) registering through the IRS SGO portal; (2) providing the donor with a written acknowledgement of the qualified contribution(s) as well as reporting information related to those contributions to the IRS; and (3) recordkeeping and reporting information to the IRS on the SGO's compliance with the requirements of section 25F.

1. *SGO registration*

SGOs will need to report information related to contributions and scholarships and information related to the SGO's compliance with the requirements of section 25F(c)(5) through the IRS SGO portal, described in proposed § 1.25F-1(a)(8), in accordance with the instructions provided therein. As such, SGOs will need to register through the IRS SGO portal and provide the information required to complete the registration process.

Proposed § 1.25F-4(b) would provide rules regarding the mandatory registration through the IRS SGO portal that an organization must complete. An organization would need to complete the registration process electronically through the IRS SGO portal and in accordance with the instructions provided therein, providing the information in proposed § 1.25F-4(b)(3). This includes the organization's general information, a point of contact, the organization's tax year, and any other information required in guidance. As part of the registration process, SGOs may authorize the IRS to disclose their information for inclusion on the IRS SGO list, as described in proposed § 1.25F-4(b)(1). The SGO registration, and its associated burden, was approved by the OMB under 1545-2335 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

2. *Collections of information by SGOs related to contributions and scholarships.*

Proposed § 1.25F-4(c) would provide rules on the reporting, recordkeeping, and third-party disclosure requirements of qualified contributions received by SGOs.

The collections of information in proposed § 1.25F-4(c) include recordkeeping requirements related to the section 25F credit. An SGO will use these records to enable it to provide the donor with a timely written acknowledgement of a contribution and to report to the IRS the necessary information about qualified contributions that the SGO received. These recordkeeping requirements are considered general tax records under § 1.6001–1(e). For PRA purposes, general tax records and their associated burdens are already approved by OMB under control number 1545-0047 for tax-exempt organizations.

Proposed § 1.25F-4(c)(1)(i) would provide that an SGO must provide a timely written acknowledgement to each donor with respect to qualified contributions made by the donor to the SGO during the calendar year. The timely written acknowledgement would need to include the total amount of contributions made by the donor, the unique donor number the SGO created for the donor (pursuant to proposed § 1.25F-4(b)(4)), and a statement as to whether or not the SGO provided any goods or services in consideration, in whole or in part, for any qualified contributions made by the donor and if so, a description and good faith estimate of the value of any goods or services. The SGO can provide timely written acknowledgement in writing or in any other form acceptable to the donor, including by electronic delivery. The timely written acknowledgement must be provided no later than January 31 of the calendar year following the calendar year in which a donor made a qualified contribution to the SGO. The timely written acknowledgement, and its associated burden, was approved by the OMB under 1545-2335 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

Proposed § 1.25F-4(c)(2) would require an SGO to annually report to the IRS, no later than February 28 of the year following the year in which qualified contributions were made, information with respect to each unique donor number assigned by the SGO, including the donor's name and address, and the aggregate amount of qualified contributions made by the donor to the SGO during the calendar year. The SGO would need to report the information to the IRS through the IRS SGO portal in accordance with the instructions provided therein. This information is necessary to allow the IRS to validate donor information collected by SGOs against filed tax returns claiming the section 25F credit. Availability of this information through the portal may facilitate earlier identification and resolution of discrepancies between filed returns and SGO data, allowing for timelier resolution of any disparities and limiting duplication, fraud, or abuse in the operation of the credit. This annual reporting, and its associated burden, was approved by the OMB under 1545-2335 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

3. *Collections of information related to compliance with the requirements of section 25F(c)(5).*

SGOs would need to keep records related to their scholarship granting activities to be able to provide the annual certification and information required by proposed § 1.25F-4(d). This includes records to ensure that an SGO spends not less than 90 percent of the income of the organization on scholarships for eligible students solely within the State in accordance with proposed § 1.25F-3(c)(4) and records to allow an SGO to verify whether the amount that any person, who contributed an aggregate amount of more than $5,000 to the organization during the taxable year, contributed more than 2 percent of the total contributions received by the organization through the end of the taxable year. This recordkeeping is necessary to allow the SGO to determine whether the person is a substantial contributor to the SGO, making the person a disqualified person for purposes of section 25F(d)(2).

In addition, proposed § 1.25F-3(c)(5) would require an SGO to verify that scholarship funds are used exclusively for qualified elementary or secondary education expenses; proposed § 1.25F-3(c)(6) would require an SGO to verify the annual household income and family size of students who apply for scholarships using one or more of the methods described in proposed § 1.25F-3(c)(6) to ensure the scholarship applicants meet the definition of an eligible student; and proposed § 1.25F-3(c)(7) would require an SGO to ensure that qualified contributions are used to fund scholarships that are awarded to eligible students solely within the State on whose State SGO list the SGO appears.

The general recordkeeping requirements for SGOs necessitated by these proposed regulations are considered general tax records under § 1.6001-1(e). For PRA purposes, general tax records are already approved by OMB under 1545–0047 for tax-exempt organizations and governmental entities.

Proposed § 1.25F-4(d) would detail an SGO's annual reporting requirements. SGOs would need to annually provide a certification and certain information to the IRS. Proposed § 1.25F-4(d)(2) would provide rules relating to the annual certification. Proposed § 1.25F-4(d)(3) would provide rules relating to information that would need to be reported annually. Proposed § 1.25F-4(d)(4) would provide that an SGO would need to provide the certifications and information required by proposed § 1.25F-4(d)(2) and (3) on an attachment to the annual Form 990 for those SGOs required to file Form 990, *Return of Organization Exempt from Income Tax*. An SGO that is not required to file a Form 990 will be required to file this form separately with the IRS. SGOs will need to provide a copy of this form to each State on whose State SGO the SGO appears. This annual reporting, and its associated burden, was approved by the OMB under 1545-0047 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

Proposed § 1.25F-4(e) would provide a third-party reporting and disclosure requirement that each SGO must engage a qualified independent third party to conduct an annual financial and programmatic audit and must provide the results of this audit to each covered State on whose State SGO list the SGO appears. This third-party disclosure requirement, and its associated burden, was approved by the OMB under 1545-0047 under the PRA procedures in 5 CFR 1320.13 and will be renewed under the PRA procedures in 5 CFR 1320.10.

*C. Individual taxpayers' collection requirements*

Proposed § 1.25F-2 would require the taxpayer to keep records of any information needed to calculate the amount of any section 25F credit from the taxpayer's qualified contributions (including any State credit the taxpayer will take on the taxpayer's State tax return with regard to the taxpayer's qualified contributions), as well as any limitations on the amount of the credit based on the taxpayer's tax liability to calculate the amount of credit able to be claimed and to determine any carryforward of unused credits. The recordkeeping requirements are considered general tax records under § 1.6001-1(e). A taxpayer would use these records to establish the taxpayer'seligibility for the section 25F credit and the amount of the credit claimed. For PRA purposes, general tax records are already approved by OMB under 1545–0074 for individuals.

Proposed § 1.25F-2(g) would require a taxpayer who claims the section 25F credit on the taxpayer's Federal income tax return to substantiate the credit on Form 8525 (or successor form) by reporting such information as may be required in the form instructions, including, for each SGO to which the taxpayer has made a qualified contribution during the taxable year, the unique donor number that the SGO was required to provide as part of a timely written acknowledgement in accordance with proposed § 1.25F-4(c).

A taxpayer that does not provide the required donor number(s) on the taxpayer's Form 8525, *Federal Scholarship Tax Credit* (or successor form), will be presumed not to have made a qualified contribution to that SGO. To rebut this presumption, the taxpayer will need to submit the timely written acknowledgement from the SGO that includes the unique donor number or otherwise provide evidence satisfactory to the Commissioner of the amount of the taxpayer's qualified contribution(s).

These collections will be made by individual taxpayers as part of filing a Form 1040, including completing new Form 8525, *Federal Scholarship Tax Credit* (or successor form), and attaching the form to the taxpayer's Form 1040 when the taxpayer files the return. The forms and their associated burdens will be accounted for and approved by OMB under 1545–0074 in accordance with the PRA procedures under 5 CFR 1320.10.

To make a qualified contribution as defined in proposed § 1.25F-1(a)(12), a taxpayer would be required to identify, to the recipient SGO at the time of making the contribution, that the contribution is intended to be a qualified contribution and should be deposited in the SGO's section 25F segregated account (or, if the SGO is a multistate SGO, that the qualified contribution should be allocated to the SGO's section 25F segregated account for one or more of the covered States on whose State SGO list the SGO appears). This third-party disclosure requirement will be listed within the instructions for Form 8525, *Federal Scholarship Tax Credit* (or successor).

These collections will be made by individual taxpayers as part of filing Form 1040 and will be included within OMB control number 1545-0074. The Form 8525 and its Instructions, and their associated burdens, will be accounted for and approved by OMB under 1545-0074 in accordance with the PRA procedures under 5 CFR 1320.10.

*D. Student collection requirements*

Proposed § 1.25F-3(c)(6) would require SGOs to verify students' annual household income and family size, which generally would necessitate students providing certain information for verification. Additionally, proposed § 1.25F-3(c)(7) would require students to provide the SGO with proof of their State residency. The IRS anticipates that students customarily provide this or similar information when applying for scholarships. This information is disclosed by students and maintained by SGOs in the normal course of scholarship administration. Information collection and maintenance in the normal course of business is considered part of usual and customary business activity and is excluded from the definition of burden under 5 CFR 1320.3(b)(2).

**III. Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 et seq.) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposal will not have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of the proposed regulations. The Treasury Department and the IRS have not determined whether the

proposed regulations, when finalized, will have a significant economic impact on a substantial number of small entities.

This determination requires further study. However, because there is a possibility of a significant economic impact on a substantial number of small entities, these proposed regulations include an IRFA. The Treasury Department and the IRS invite comments on both the number of entities affected by these proposed regulations and the economic impact of these proposed regulations on small entities.

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

*A. Need for and Objectives of the Rule*

Section 25F allows an income tax credit to an individual for qualified contributions to a public charity that meets certain statutory requirements and is included on a covered State's list of SGOs. Section 25F(c)(3) defines a "qualified contribution" as a contribution to an SGO that uses the contribution to fund scholarships for eligible students solely within the State in which the organization is listed pursuant to section 25F(g). For a contribution to be a qualified contribution eligible for a section 25F credit, the State would need to complete an election to participate under section 25F (or perfect an advance election) by including the organization on its State SGO list. An organization is an SGO only if it satisfies each criterion set forth in section 25F(c)(5).

The proposed regulations would provide rules and definitions for determining the amount of the credit, rules on how a State would elect to participate under section 25F by submitting its State SGO list, and rules on how an organization would satisfy each criterion of section 25F(c)(5) so that the organization could appear on a State SGO list. The proposed rules are expected to clarify and implement section 25F, which Congress intended to help meet the stated policy of Executive Order 14191, Expanding Educational Freedom and Opportunity for Families, issued January 29, 2025, to support parents in choosing and directing the upbringing and education of their children. Thus, the Treasury Department and the IRS intend and expect that the proposed rules will provide clear rules to facilitate and support charitable contributions to SGOs, which in turn will make additional scholarships available to allow more parents to make the decisions that best support their goals and objectives for providing high-quality educational opportunities to their children.

*B. Affected Small Entities*

The RFA generally defines a "small entity" as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA), (2) a not-for-profit organization that is not dominant in its field, or (3) a small government jurisdiction with a population of less than 50,000. States and individuals are not included in the definition of "small entity."

The SBA estimated in its 2023 Small Business Profile that 99.9 percent of United States businesses meet its definition of a small business. The applicability of these proposed regulations does not depend on the size of the business, as defined by the SBA. As described more fully in the preamble to these proposed regulations and in this IRFA, the small entities that these rules will primarily affect will be SGOs, some of which may be part of larger charitable endeavors. SGOs may be classified under the North American Industry Classification System (NAICS) code 813211 (Grantmaking Foundations). According to SBA size standards (effective January 1, 2022), entities with average annual receipts of $40 million or less are considered small entities for this NAICS code.

The Treasury Department and the IRS currently estimate that 600 to 700 organizations may be impacted by these proposed regulations because they will accept contributions and use those contributions to fund scholarships for elementary and secondary educational expenses of eligible students for purposes of the credit under section 25F. As SGOs organized to meet the requirements of section 25F do not currently exist, this estimate is based on the current number of organizations providing similar services in States that provide a State tax credit. The Treasury Department and the IRS have determined that currently there are approximately 450 such organizations, spread over 20 different States. It is anticipated that many of these organizations also will apply to be SGOs for purposes of the section 25F credit. As 30 States have submitted an Advance Election to participate under section 25F as of the date of publication of these proposed regulations, and more States may elect to participate prior to 2027, the first year in which the section 25F credit is applicable, the Treasury Department and the IRS believe the number of organizations wanting to be SGOs will be larger than the number of organizations currently engaging in similar activities.

Of the estimated 600 to 700 organizations that may be impacted by these proposed regulations, the Treasury Department and the IRS expect that at least 95 percent of these organizations will likely be considered a small entity. To prepare these estimates, the Treasury Department and the IRS reviewed Tax-Exempt return (Form 990 series) filings for the 2023 taxable year for organizations providing scholarship granting activities.

*1. Impact of the Rules*

The recordkeeping, reporting, and third-party disclosure requirements under these proposed regulations would apply to SGOs. SGOs would have administrative costs related to reading and understanding the rules as well as recordkeeping, reporting, and third-party disclosure requirements. SGO recordkeeping and reporting arise from the need to register on the IRS SGO portal, verify the eligibility of students applying for a scholarship, file a form with the IRS to report on the SGOs' compliance with the rules of section 25F, and provide the IRS with information on the contributions received. SGO third-party disclosure requirements arise from the need to provide to donors a timely written acknowledgement of a donor's qualified contributions and to provide a copy of the form reporting the SGOs' compliance with the rules of section 25F to each State on whose State SGO list the SGO appears. Although the Treasury Department and the IRS do not have sufficient data to precisely determine the likely extent of the costs of compliance, the estimated burden of complying with the recordkeeping and reporting requirements is described in the Paperwork Reduction Act section of the preamble.

*2. Alternatives Considered*

The Treasury Department and the IRS considered alternatives to the proposed regulations. However, they are of the view that there are no significant alternatives that would both achieve the policy objectives and goals of these proposed rules and be less burdensome to small entities. For example, some comments in response to Notice 2025-70 favored a self-attestation approach for SGO compliance and enforcement, while others insisted that an SGO's mere self-attestation should not be sufficient. While a self-attestation approach would have been less burdensome, it could lead to SGOs not meeting the requirements of the statute by (i) providing scholarships for non-eligible students or for non-eligible expenses or (ii) not satisfying the 90 percent of income requirement. Accordingly, the proposed regulations require organizations appearing on a State SGO list to certify and provide information demonstrating that the organization fulfilled the criteria and requirements of being an SGO as required by section 25F.

Many of the compliance burdens in the proposed regulations are statutory requirements, but to reduce these burdens the Treasury Department and the IRS considered and included safe harbors in the proposed regulations, such as permitting SGOs to test their separate accounts maintained exclusively for qualified contributions for purposes of satisfying the operational requirements found in proposed § 1.25F-3(c)(1) and for providing individual scholarships for individual academic tutoring or special needs services at schools in low-income areas found in proposed § 1.25F-3(c)(6)(iii)(C). Comments are requested on the requirements in the proposed regulations, including specifically whether there are less burdensome alternatives that adequately mitigate the risk of fraud or improper payment of scholarships under section 25F.

*3. Duplicative, Overlapping, or Conflicting Federal Rules*

The proposed regulations would not duplicate, overlap, or conflict with any relevant Federal rules. As discussed in the Explanation of Provisions, the proposed regulations would merely provide requirements, procedures, and definitions related to the section 25F credit for qualified contributions to SGOs. The Treasury Department and the IRS invite input from interested members of the public about identifying and avoiding overlapping, duplicative, or conflicting requirements.

**IV. Unfunded Mandates Reform Act**

Section 202 (2 U.S.C. 1532(a)) of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. The Treasury Department and the IRS have concluded that these proposed regulations, and the cross-referenced temporary regulations (TD 10057) published elsewhere in this issue of the **Federal Register**, do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

A "Federal intergovernmental mandate" is defined in 2 U.S.C. 658(5)(A), in part, as any provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, except for a duty arising from participation in a voluntary Federal program. Among other things, "federal tax policies that preempt specific state and local tax policies, and administrative rules issued by federal agencies cannot be avoided, [therefore] they are enforceable duties and are covered under UMRA." Adam G. Levin, *Unfunded Mandates Reform Act: History, Impact, and Issues* (CRS Report No: R40957) (2021) *https://www.congress.gov/crs-product/R40957*.

Proposed § 1.25F-5 would provide rules for the State's submission of its election to participate under section 25F and the State SGO list; rules regarding the information and certifications a State is required to provide for each organization included on the State SGO list; requirements that States would need to use in determining whether organizations meet the requirements of section 25F(c)(5) and proposed § 1.25F-3; procedures for notifying the IRS of any determination by the State that an organization on the State SGO list is being removed from such list for not satisfying an applicable requirement.

These rules do not create a Federal intergovernmental mandate as defined in title 2 of the United States Code. First, the rules do not impose an "enforceable duty" on the States. For States that provide a State tax credit for donations to scholarship granting entities, these rules do not replace State laws in this area. Second, even if these rules imposed an "enforceable duty," that duty arises from a State's voluntary participation in a Federal tax credit. Section 25F(g)(1)(A) provides that a State voluntarily elects to participate under section 25F. If a State does not want to participate, it is not required to do so.

A "Federal private sector mandate" is defined in 2 U.S.C. 658(7)(A), in part, as any provision in legislation, statute, or regulation that would impose an enforceable duty upon the private sector, except for a duty arising from participation in a voluntary Federal program. For this purpose, 2 U.S.C. 658(9) provides that the term "private sector" means "all persons or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include State, local, or Tribal governments."

Proposed § 1.25F-4(b) would provide rules for the mandatory registration process through the IRS SGO portal that each SGO would need to complete. Proposed § 1.25F-4(c) would provide the requirements for acknowledgement, recordkeeping, and reporting of qualified contributions received by the SGO.

Proposed § 1.25F-3 would provide rules for scholarship granting organizations under section 25F(c)(5) and (d), including a definition of SGOs and the operational requirements for SGOs. Proposed § 1.25F-4(c) and (d) detail an SGO's annual reporting requirements and proposed § 1.25F-4(e) describes the annual financial and programmatic audit requirements for SGOs. Proposed § 1.25F-2 would provide rules for determining the credit and any credit carryforward under

section 25F for qualified contributions made by individuals.

These rules do not create a Federal private sector mandate as defined in title 2 of the United States Code. First, the rules do not impose an "enforceable duty" on any member of the private sector. These rules do not include direct statutory orders, a total or partial preemption, or administrative rules issued by Federal agencies that cannot be avoided. Instead, they fall squarely in the exception for a duty arising from voluntary participation in a Federal tax credit. Tax-exempt organizations are not required to be SGOs, but to the extent that an organization wants to be an SGO, the organization would then be subject to the rules in these regulations. Likewise, an individual taxpayer is not required to claim a credit under section 25F, but to the extent that a taxpayer wants to claim a credit, the taxpayer would need to follow the rules provided in the proposed regulations.

**V. Executive Order 13132: Federalism**

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The Treasury Department and the IRS conclude that these proposed regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive order.

Section 1(a) of Executive Order 13132 provides that, for purposes of the order, "Policies that have federalism implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." As such, Executive Order 13132 prohibits an agency from publishing a rule if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The Tenth Amendment to the United States Constitution provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Proposed § 1.25F-5 would make States responsible for ensuring SGOs on their SGO list have complied with the requirements of section 25F, but only if a State "voluntarily elects to participate under" section 25F. These proposed regulations do not violate the Executive order or the Tenth Amendment because States will only need to comply with the guidance if they voluntarily elect to participate under section 25F.

The proposed regulations would not coerce State governments into administering Federal law in violation of the Executive order or the Tenth Amendment because States do not lose any funding or face any other negative consequences if they decline to participate under section 25F. A State that does not want to ensure that organizations have complied with reporting requirements can decline to submit an annual list of SGOs under section 25F(g)(1)(A). If a State does not submit a list of SGOs, it does not need to comply with any guidance related to section 25F.

In addition, section 25F and these proposed regulations would not insulate the Federal or State governments from political accountability, which indicates that the section and guidance would be permissible under the Tenth Amendment. If residents want their State to submit a list of SGOs (and to take on the resulting administrative responsibilities), they can lobby their State government to do so. The same is true for residents who do not want their State to participate under the section. Thus, rather than invading the domain of State authority, section 25F enables States to determine whether to implement a Federal policy. Any State that does not want to participate in section 25F can decline to submit a list of SGOs, which would prevent taxpayers from claiming credits based on contributions to organizations within the State that would otherwise be SGOs.

Further, these proposed regulations do not impose substantial direct compliance costs on State and local governments. While States will incur some costs in complying with the requirements of these proposed regulations, those costs will not be substantial. See the discussion of the RFA and Executive Order 12866 elsewhere in this Special Analyses section.

**VI. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments**

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) prohibits an agency from publishing any rule that has Tribal implications if the rule either imposes substantial, direct compliance costs on Indian Tribal governments and is not required by statute, or preempts Tribal law, unless the agency meets the consultation and funding requirements of section 5 of the Executive order. These proposed regulations do not have a substantial direct effect on one or more federally recognized Indian Tribes and do not impose substantial direct compliance costs on Indian Tribal governments within the meaning of the Executive order. These proposed regulations do not impose substantial, direct compliance costs on Indian Tribal governments, but they have been coordinated with the director, Office of Tribal and Native Affairs, Office of the Treasurer.

**Comments and Public Hearing**

Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the rule is available on the rulemaking docket at *https://www.regulations.gov.*

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments regarding the notice of proposed rulemaking that are submitted timely to the IRS, as prescribed in this preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be made available at *https://www.regulations.gov*. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing has been scheduled for Tuesday, December 15, 2026, beginning at 10 a.m. ET, in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by December 1, 2026**.** A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing. If no outline of the topics to be discussed at the hearing is received by December 1, 2026, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to *publichearings@irs.gov* to have their names added to the building access list. The subject line of the email must contain the regulation number REG-117199-25 and the language TESTIFY in Person. For example, the subject line may say: Request to TESTIFY in Person at Hearing for REG-117199-25.

Individuals who want to testify by telephone at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG-117199-25 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG-117199-25.

Individuals who want to attend the public hearing in person without testifying must also send an email to *publichearings@irs.gov* to have their names added to the building access list. The subject line of the email must contain the regulation number REG-117199-25 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing in Person for REG-117199-25. Requests to attend the public hearing must be received by 5 p.m. ET on Thursday, December 10, 2026.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG-117199-25 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG-117199-25. Requests to attend the public hearing must be received by 5 p.m. ET on Thursday, December 10, 2026.

Hearings will be made accessible to people with disabilities. To request special assistance during a hearing, please contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317-6901 (not a toll-free number) no later than Wednesday, December 9, 2026.

**Drafting Information**

The principal authors of these regulations are Nicole Cammarota of the Office of Division Counsel (Litigation & Advisory), Constance Chien of the Office of Associate Chief Counsel (Income Tax & Accounting), and Andrew Fahmy of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

**PART 1--INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 is amended by adding entries for §§ 1.25F-1 through 1.25F-5 in numerical order to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 * * *

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Section 1.25F-1 also issued under 26 U.S.C. 25F(h).

Section 1.25F-2 also issued under 26 U.S.C. 25F(h).

Section 1.25F-3 also issued under 26 U.S.C. 25F(h).

Section 1.25F-4 also issued under 26 U.S.C. 25F(h).

Section 1.25F-5 also issued under 26 U.S.C. 25F(h).

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**Par. 2.** Sections 1.25F-0 through 1.25F-5 are added to read as follows:

**§ 1.25F-0 Table of contents.**

This section lists the table of contents for §§ 1.25F-1 through 1.25F-5.

*§ 1.25F-1 Definitions.*

(a) In general.

(1) Advance election.

(2) Covered State.

(3) Disqualified person.

(4) Eligible student.

(i) In general.

(ii) Area median gross income.

(iii) Household.

(5) Foster child.

(i) In general.

(ii) Authorized placement agency.

(6) Guidance.

(7) IRS scholarship granting organization (SGO) list.

(8) IRS SGO portal.

(9) IRS State section 25F portal.

(10) Located in a State.

(11) Multistate SGO.

(12) Qualified contribution.

(i) In general.

(ii) Goods or services received as consideration for the contribution.

(iii) Cash.

(13) Qualified digital wallet.

(14) Qualified elementary or secondary education expense.

(15) Resident of the United States.

(16) Scholarship granting organization (SGO).
(17) School.
(18) Section 25F segregated account.
(19) Sibling.
(20) Single-State SGO.
(21) State.
(22) State credit.
(23) State election.
(24) State SGO list.
(25) Timely written acknowledgement.
(26) Unused credit.
(b) Applicability date.

*§ 1.25F-2 Federal scholarship tax credit for qualified contributions.*

(a) Allowance of credit.
(1) In general.
(2) Treatment of married taxpayers filing jointly.
(3) Treatment of contributions from partnerships and S corporations.
(b) Donor reliance on SGO status.
(1) In general.
(2) Exception.
(c) Calculation of the section 25F credit.
(1) In general.
(2) Ordering rule for State credit reduction.
(d) Tax liability limitation.
(e) Carryforward of unused credit amounts.
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(1) In general.

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**§ 1.25F-1 Definitions.**

(a) *In general.* The definitions of terms in this paragraph (a) apply for purposes of section 25F of the Internal Revenue Code (Code) and the section 25F regulations (that is, this section and §§ 1.25F-2 through 1.25F-5).

(1) *Advance election.* The term *advance election* means a State's submission described in § 1.25F-5(c)(3).

(2) *Covered State*. The term *covered State* means a State that makes a State election, in accordance with § 1.25F-5(c), to participate under section 25F for a particular calendar year.

(3) *Disqualified person*. The term *disqualified person* is defined in § 1.25F-3(d).

(4) *Eligible student*—(i) *In general.* The term *eligible student* means an individual who:

(A) Is a member of a household with an income that, for the calendar year prior to the date of the application for a scholarship, is not greater than 300 percent of the area median gross income; and

(B) Is eligible to enroll in a public elementary or secondary school.

(ii) *Area median gross income*. The term *area median gross income* means area median gross income calculated in a manner consistent with determinations of area median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination), including adjustments for family size, meaning the number of persons who are part of a household for purposes of section 25F. Area median gross income will be published in the Internal Revenue Bulletin annually by the Internal Revenue Service.

(iii) *Household*. The term *household* includes the individual whose status as an eligible student is being determined, and the group of persons residing with that individual. *See* § 1.25F-3(c)(6)(ii)(B) if an individual resides in multiple households during the year.

(5) *Foster child*—(i) *In general.* The term *foster child* means a child who has been removed from the custody of a parent or legal guardian and placed under the care or placement authority of, or has become the legal responsibility of, a child welfare agency, regardless of whether the child has been or will be placed with a person by an authorized placement agency or by judgment, decree, custody order, or any other order of any court of competent jurisdiction (other than an order appointing a legal guardian of the child).

(ii) *Authorized placement agency*. The term *authorized placement agency* means a State, the District of Columbia, a possession of the United States, a foreign country, an Indian Tribal government (as defined in section 7701(a)(40)), or an agency or organization that is authorized by a State (including a non-federally recognized Tribe that otherwise is authorized to act on such matters under applicable State law), or a political subdivision of any of the foregoing, to place children for legal adoption or in foster care.

(6) *Guidance*. The term *guidance* means guidance published in the **Federal Register** or Internal Revenue Bulletin (*see* §§ 601.601(d)(2) and 601.602 of this chapter) or, as appropriate, in forms, instructions, and publications available on *https://www.irs.gov* and through the IRS SGO portal or IRS State section 25F portal, as applicable.

(7) *IRS scholarship granting organization (SGO) list.* The term *IRS SGO list* means the aggregated list of SGOs included on one or more State SGO lists that the IRS maintains and publishes on *https://www.irs.gov* in accordance with § 1.25F-5(d)(9).

(8) *IRS SGO portal.* The term *IRS SGO portal* consists of the module(s) on *https://www.irs.gov* that an SGO is required by § 1.25F-4(b) to use, in accordance with the instructions provided therein, to electronically obtain instructions for creating a unique donor number in a uniform format to be used by all SGOs, authorize disclosure of its name and identifying information on the IRS SGO list, and report specified information.

(9) *IRS State section 25F portal.* The term *IRS State section 25F portal* consists of the module(s) on *https://www.irs.gov* that a State is required by § 1.25F-5(b) to use, in accordance with guidance, to electronically transmit its State election (or advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in guidance.

(10) *Located in a State*. An organization is *located in a State* if the organization 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. *But see* § 1.25F-5(e)(2) (prohibiting covered States from imposing requirements on SGOs that are more restrictive than the requirements in section 25F(c)(5)).

(11) *Multistate SGO.* The term *multistate SGO* means an SGO that is included on the State SGO list of more than one covered State.

(12) *Qualified contribution*—(i) *In general.* The term *qualified contribution* means a charitable contribution of cash made by an individual to an SGO to the extent that the donor designates to the recipient SGO, at the time of making the contribution, that the contribution is intended to be a qualified contribution for purposes of section 25F. Such designation, once made, is irrevocable.

(ii) *Goods or services received as consideration for the contribution*. If the SGO provides any goods or services as consideration for any part of the contribution, then the value of those goods and services must be subtracted from the amount of the charitable contribution to arrive at the amount of the qualified contribution.

(iii) *Cash*. For purposes of paragraph (a)(12)(i) of this section, the term *cash*—

(A) Means physical currency, check, money order, electronic transfer, after-tax payroll deduction, or other similar method, in each case all in U.S. dollars, and

(B) Does not mean any digital asset.

(13) *Qualified digital wallet*. The term qualified digital wallet means an electronic payment platform in which a third-party provider provides a streamlined interface for managing the administration of section 25F scholarships by having eligible students and their families submit purchase requests, tracking approved expenses, and maintaining controls to ensure that all payments are made for qualified elementary or secondary education expenses by pre-approving vendors and paying vendors directly or requiring timely submission of receipts.

(14) *Qualified elementary or secondary education expense.* The term *qualified elementary or secondary education expense* means any expense of an eligible student that is described in section 530(b)(3)(A) and any guidance thereunder.

(15) *Resident of the United States.* The term *resident of the United States* means an individual who is a resident of the United States under section 7701(b) or in accordance with an election under section 6013(g) or (h). For this purpose, the term *United States* means only the 50 States and the District of Columbia. *See* section 7701(a)(9).

(16) *Scholarship granting organization (SGO).* The term *SGO* is defined in section 25F(c)(5) and § 1.25F-3(b).

(17) *School*. The term *school* has the definition set forth in section 530(b)(3)(B) and any guidance issued thereunder.

(18) *Section 25F segregated account*. The term *section 25F segregated account* means the separate account exclusively for qualified contributions and the earnings therefrom that the SGO must maintain pursuant to section 25F(c)(5)(B) and § 1.25F-3(b)(2) (in the case of a single-State SGO) or § 1.25F-3(c)(3) (in the case of a multistate SGO).

(19) *Sibling*. The term *sibling* means an individual's brothers and sisters, adopted siblings, foster siblings, half-siblings, and step-siblings.

(20) *Single-State SGO*. The term *single-State SGO* means an organization included on the State SGO list of only one covered State.

(21) *State*. References to *State* include each of the 50 States and the District of Columbia.

(22) *State credit*. The term *State credit* means any tax credit offered by a State for making a contribution to an SGO that is allowed on a State tax return of the taxpayer (whether or not such return is filed jointly with a spouse) for the taxable year. For this purpose, any State tax credit carryforward or carryback amount attributable to a contribution to an SGO will be treated as allowed for the taxable year of the contribution. *See* § 1.25F-2(c)

(2) for an ordering rule that applies in the case of a State credit that is allowed for contributions that are not qualified contributions.

(23) *State election*. The term *State election* means a State election to participate under section 25F for a particular calendar year that is made in accordance with the procedures set forth in § 1.25F-5(b) and (c).

(24) *State SGO list*. The term *State SGO list* means the list of all SGOs located in the State that the covered State submits to the IRS for a particular calendar year in accordance with § 1.25F-5(d) (and that may be changed during such calendar year in accordance with § 1.25F-5(d)(7)).

(25) *Timely written acknowledgement*. The term *timely written acknowledgement* means the written acknowledgement an SGO must provide to donors with respect to qualified contributions made during the calendar year in accordance with § 1.25F-4(c)(1).

(26) *Unused credit*. The term *unused credit* means the amount of the credit determined under § 1.25F-2(c) for a taxable year that is not used by reason of the tax liability limitation in section 26(a).

(b) *Applicability date*. This section applies to taxable years ending on or after [date of publication of the final regulations in the **Federal Register**].

**§ 1.25F-2 Federal scholarship tax credit for qualified contributions.**

(a) *Allowance of credit*—(1) *In general*. Under section 25F(a) of the Internal Revenue Code (Code), an individual taxpayer who is a U.S. citizen or a resident of the United States for all or any portion of a taxable year is allowed a nonrefundable credit determined in accordance with paragraph (c) of this section for qualified contributions made by the taxpayer in the portion of that taxable year during which the taxpayer is a U.S. citizen or a resident of the United States (section 25F credit). A section 25F credit is allowed against the tax imposed for the taxable year by sections 1 and 55(a). In making a contribution to an organization to obtain a section 25F credit, a taxpayer may rely, in accordance with paragraph (b) of this section, on the donee organization's presence on the IRS scholarship granting organization (SGO) list at the time of the contribution to establish that the organization is an SGO. A taxpayer may make a qualified contribution to any SGO on any State SGO list, regardless of the taxpayer's State of residence. The amount of the section 25F credit allowed for a taxable year generally is equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year, reduced by the amount of any State credits claimed for such qualified contributions, and subject to a cap of $1,700. However, because the section 25F credit used in a particular year cannot exceed the tax liability of the individual taxpayer for that year, the section 25F credit is limited to the amount of the taxpayer's tax liability, as determined under paragraph (d) of this section. Any unused section 25F credit may be carried forward for up to five years, as provided in paragraph (e) of this section. Rules relating to the denial of a double benefit are provided in paragraph (f) of this section. Rules relating to the reporting and substantiation of qualified contributions are provided in paragraph (g) of this section. Paragraph (h) of this section contains examples illustrating the application of the rules of this section.

(2) *Treatment of married taxpayers filing jointly*. For purposes of section 25F(b)(1), married taxpayers who elect to file a joint return under section 6013(a) and § 1.6013-1(a) are treated as separate taxpayers.

(3) *Treatment of contributions from partnerships and S corporations*. A partner may not take into account such partner's distributive share of the partnership's charitable contributions to an SGO in determining the amount of the partner's qualified contributions under section 25F and paragraph (a) of this section. Similarly, a shareholder of an S corporation may not take into account such shareholder's pro rata share of the S corporation's charitable contributions to an SGO in determining the amount of the shareholder's qualified contributions under section 25F and paragraph (a) of this section. This paragraph (a)(3) applies whether or not a partner or an S corporation shareholder may treat the partner's or shareholder's share of such contributions as deductible under section 170.

(b) *Donor reliance on SGO status*—(1) *In general*. Except as provided in paragraph (b)(2) of this section, a taxpayer may rely on the fact that an organization is listed on the IRS SGO list (and not listed as removed from that list) at the time a contribution is made to establish that the taxpayer's contribution is being made to an SGO. *See* § 1.25F-5(d)(9) for additional guidance on the publication and maintenance of the IRS SGO list, including for the IRS's addition of SGOs whose tax-exempt status is recognized after the State's submission of the State SGO list.

(2) *Exception.* A taxpayer may not rely on the fact that an organization is listed on the IRS SGO list (and not listed as removed from that list) at the time a contribution is made to establish that the organization is an SGO if the taxpayer:

(i) Had knowledge that the recipient organization did not satisfy the requirements of section 25F(c)(5) and § 1.25F-3(b) at the time the contribution was made; or

(ii) Was at least in part responsible for, or was aware of, the act, the failure to act, or the substantial and material change on the part of the organization that gave rise to the removal of the organization from the IRS SGO list in accordance with § 1.25F-5(d)(8) after the date of the taxpayer's contribution.

(c) *Calculation of the section 25F credit*—(1) *In general.* A taxpayer's section 25F credit is the lesser of:

(i) The aggregate amount of qualified contributions made during the taxable year while the taxpayer was a United States citizen or a resident of the United States reduced (but not to below zero) by the sum of any State credits with regard to those qualified contributions; or

(ii) $1,700.

(2) *Ordering rule for State credit reduction.* For purposes of this section, if a State credit is allowed with respect to an individual's contributions of cash to an SGO that includes both a qualified contribution and an amount that is not a qualified contribution, then the State credit will be treated as first being allowed with respect to the amount of the donor's contribution that is not a qualified contribution and only thereafter treated as being allowed

with respect to the donor's qualified contributions to an SGO.

(d) *Tax liability limitation.* The section 25F credit allowed for a taxable year may not exceed the taxpayer's tax liability as defined in section 26(a), based on the tax imposed for such taxable year as reduced by the sum of the nonrefundable personal credits allowable under sections 21, 22, 24, 25, 25A, 25B, 25C and 25E. *See* paragraph (e) of this section for rules regarding the carryforward of unused credit amounts.

(e) *Carryforward of unused credit amounts*—(1) *In general.* Under section 25F(f), a taxpayer may carry forward any unused credit to one or more succeeding taxable years and add it to the section 25F credit allowable for such taxable year(s), in accordance with this paragraph (e).

(2) *Five-year carryforward limitation.* No unused credit may be carried forward to any taxable year following the fifth taxable year after the taxable year in which the section 25F credit arose.

(3) *First-in first-out.* Section 25F credits carried forward to a taxable year pursuant to this paragraph (e) are used on a first-in first-out basis. Thus, a section 25F credit carried forward must be used prior to using any section 25F credit that arose for such taxable year.

(f) *Denial of double benefit.* Any qualified contribution for which a credit is allowed under section 25F may not be taken into account as a charitable contribution for purposes of section 170. For this purpose, an amount is treated as allowed if it may be carried forward pursuant to paragraph (e) of this section. Any portion of a qualified contribution for which a credit under section 25F is not allowed may be deductible as a charitable contribution if it meets the requirements of section 170 and the regulations thereunder.

(g) *Reporting and substantiation of qualified contributions*—(1) *In general.* A taxpayer who claims the section 25F credit on the taxpayer's Federal income tax return must substantiate the credit on Form 8525, *Federal Scholarship Tax Credit* (or successor form), by reporting such information as may be required in the form and instructions, including, for each SGO to which the taxpayer has made a qualified contribution during the taxable year, the unique donor number that the SGO was required to provide as part of a timely written acknowledgement in accordance with § 1.25F-4(c).

(2) *Presumption*. A taxpayer that does not provide the required donor number(s) on the taxpayer's Form 8525, *Federal Scholarship Tax Credit* (or successor form), will be presumed not to have made a qualified contribution to that SGO. However, this presumption may be rebutted by the taxpayer's submission of the timely written acknowledgement from the SGO that includes such unique donor number or other evidence satisfactory to the Commissioner of the amount of the contribution(s) from the taxpayer and the fact that the contributions were designated as qualified contributions, all within the response time prescribed in a written request from the IRS.

(h) *Examples*. The following examples illustrate the application of the rules of this section. For purposes of these examples, Org X and Org Y are listed on the IRS SGO list at the time of the contribution. In each case, the taxpayer provides the unique donor number for each SGO on the taxpayer's Form 8525, *Federal Scholarship Tax Credit* (or any successor form).

(1) *Example 1: Annual limitation and no double benefit*—(i) *Facts*. In January 2027, Taxpayer A contributes $2,000 to Org X, designates the entire amount of the contribution as a qualified contribution, and receives a timely written acknowledgement in accordance with § 1.25F-4(c). A's qualified contribution does not satisfy the requirements for any State credit.

(ii) *Analysis.* A's $2,000 qualified contribution results in a $1,700 allowed section 25F credit that may be claimed on A's return for 2027, subject to the tax liability limitation under section 26(a). *See* paragraph (c) of this section. This $1,700 portion of the qualified contribution cannot be taken into account as a charitable contribution for purposes of section 170. The remaining $300 from the $2,000 qualified contribution may be deductible as a charitable contribution if it meets the requirements of section 170 and the regulations thereunder.

(2*) Example 2: Married taxpayers filing jointly*—(i) *Facts*. In January 2027, Taxpayer B and Taxpayer C are a married couple. B and C each contribute $2,000 to Org X. Each designates the entire amount of their contribution as a qualified contribution and each receives a timely written acknowledgement in accordance with § 1.25F-4(c). Neither B's nor C's contribution satisfies the requirements for any state credits.

(ii) *Analysis*. Each of B and C's contributions result in a $1,700 allowed section 25F credit, resulting in a total of $3,400 that may be claimed on B and C's joint return. The credit will be subject to their combined tax liability limitation under section 26(a). *See* paragraph (c) of this section. The $3,400 of qualified contributions cannot be taken into account as a charitable contribution for purposes of section 170. The remaining $600 from the combined $4,000 qualified contributions may be deductible as a charitable contribution if it meets the requirements of section 170 and the regulations thereunder.

(3) *Example 3: State credit reduces credit under section 25F*—(i) *Facts*. In January 2027, Taxpayer D contributes $1,500 to Org X and $500 to Org Y. D designates the entire amount of each contribution as a qualified contribution and receives a timely written acknowledgement for each in accordance with § 1.25F-4(c). In addition, Org X qualifies as a State tuition granting organization under the laws of State Q. State Q offers a State credit equal to 40 percent of an individual's contributions up to $1,000 to a State tuition granting organization, and D's $1,500 contribution to Org X also satisfies the requirements for the State credit. In February 2028, D files a 2027 Form 1040 and the appropriate State Q income tax return. D claims a State credit of $400 on the State Q income tax return.

(ii) *Analysis*. D's $2,000 of qualified contributions are reduced by $400, the amount of State credits claimed on the taxpayer's State tax return with regard to those qualified contributions. The remaining $1,600 of qualified contributions is less than $1,700, so D is allowed a $1,600 section 25F credit that may be claimed on D's return for 2027, subject to the tax liability limitation under section 26(a) and paragraph (d) of this section. *See* paragraph (c) of this section.

(4) *Example 4: Taxpayer designates less than the entire contribution as a qualified contribution*—(i) *Facts*. In January 2027, Taxpayer E contributes $4,000 to Org X. E designates $1,700 as a qualified contribution and receives a timely written acknowledgement in accordance with § 1.25F-4(c). In addition, Org X qualifies as a State tuition granting organization under the laws of State Z. State Z offers a $400 State credit equal to 10 percent of an individual's contributions of up to $4,000 to a State tuition granting organization, and E's entire contribution (both the qualified contribution and non-qualified contribution portions) also satisfies the requirements for the State credit. In February 2028, E files a 2027 Form 1040 and the appropriate State Z income tax return. E claims a State tax credit of $400 on the State Z income tax return.

(ii) *Analysis.* Based on the ordering provision in paragraph (c)(2) of this section, E's $400 State credit is treated as being allowed first from the $2,300 non-qualified contribution to the SGO, so the $1,700 qualified contribution is not reduced by the $400 State credit. E's $1,700 qualified contribution to the SGO results in $1,700 of allowed section 25F credit that may be claimed on E's return for 2027, subject to the tax liability limitation under section 26(a) and paragraph (d) of this section. *See* paragraph (c) of this section.

(5) *Example 5: Credit carryforward—(*i) Facts. Taxpayer F has credit carryforwards under section 25F(f) for the last five years, as shown in Table 1 in this paragraph (h)(4)(i). F made qualified contributions of $2,000 in 2033 and has a limitation under section 26(a) of $4,500 for that year. F has no other nonrefundable credits. The difference between the qualified contribution in the year the carryforward was generated and the credit used in such year is based on F's section 26(a) limitation for each year.

**Table 1 to Paragraph (h)(5)(i)**

| Year | Cumulative carryforward from prior years | Qualified Contributions | Section 25F credit used after application of section 26(a) | **Carryforward from that year to future years under section 25F(f) and paragraph (e) of this section** |
|---|---|---|---|---|
| 2027 | 0 | $1,000 | $900 | **$100** |
| 2028 | $100 | $1,000 | $0 | **$1,000** |
| 2029 | $1,100 | $1,000 | $0 | **$1,000** |
| 2030 | $2,100 | $1,500 | $0 | **$1,500** |
| 2031 | $3,600 | $1,500 | $0 | **$1,500** |
| 2032 | $5,100 | $2,000 | $0 | $1,700 |

(ii) *Analysis for 2033.* In taxable year 2033, F may use the section 25F(f) credit carryforwards from taxable years 2028 through 2032, but the carryforward from taxable year 2027 has expired as it was from more than five taxable years preceding the current taxable year. *See* paragraph (e)(2) of this section. As a result, the cumulative carryforward to 2033 is the sum of the amount carried forward to 2032 ($5,100) less the amount from 2027 ($100), plus the carryforward from 2032 ($1,700), for a total carryforward available in 2033 of $6,700. F's section 26(a) limitation of $4,500 will determine the amount of carryforwards F may use against F's income tax for taxable year 2033. Pursuant to paragraph (e)(3) of this section, F uses the credits in the following order: $1,000 from 2028, $1,000 from 2029, $1,500 from 2030, and $1,000 from 2031 for a total of $4,500. The remaining $500 from 2031, $1,700 from 2032, and the $1,700 from 2033 will be carried forward to a future year because they are limited by the section 26(a) limitation. *See* paragraphs (d) and (e) of this section.

**Table 2 to Paragraph (h)(5)(ii)**

| Year | Carryforward to future years | Carryforward used in 2033 | Carryforwards to 2034 |
|---|---|---|---|
| 2027 | $100 | $0 - (expired) | $0 |
| 2028 | $1,000 | $1,000 | $0 |
| 2029 | $1,000 | $1,000 | $0 |
| 2030 | $1,500 | $1,500 | $0 |
| 2031 | $1,500 | $1,000 (partially used) | $500 |
| 2032 | $1,700 | $0 | $2,200 |
| 2033 (current year) | $1,700 | $0 | $3,900 |

(i) *Applicability date*. This section applies to taxable years ending on or after [date of publication of the final regulations in the **Federal Register**].

**§ 1.25F-3 Scholarship granting organizations.**

(a) *Overview*. This section provides rules for SGOs under section 25F(c)(5) and (d) of the Internal Revenue Code (Code). Paragraph (b) of this section lists the requirements to qualify as an SGO. Paragraph (c) of this section provides operational requirements for SGOs. Paragraph (d) of this section defines disqualified persons with respect to an SGO.

(b) *Scholarship granting organization.* The term *scholarship granting organization* (SGO) means an organization that:

(1) Is described in section 501(c)(3), exempt from tax under section 501(a), and not a private foundation, as defined in section 509(a);

(2) Prevents the co-mingling of qualified contributions with other amounts by maintaining a section 25F segregated account, which must contain only qualified contributions and the earnings therefrom, depositing all qualified contributions into its section 25F segregated account, and maintaining a complete set of books and records for its section 25F segregated account;

(3) Satisfies the operational requirements of section 25F(d)(1) and paragraph (c) of this section;

(4) Does not award scholarships to any disqualified person as defined in paragraph (d) of this section;

(5) Is included on the State SGO list of one or more covered States in which the organization is located; and

(6) Satisfies the reporting and recordkeeping requirements in § 1.25F-4.

(c) *Operational requirements for SGOs*—(1) *In general*. An SGO meets the requirements of this paragraph (c)(1) if the organization:

(i) Provides scholarships to 10 or more students who do not all attend the same school;

(ii) Spends not less than 90 percent of the income of the organization on scholarships for eligible students consistent with paragraph (c)(4) of this section;

(iii) Verifies, in accordance with paragraph (c)(5) of this section, that scholarships are used solely for qualified elementary or secondary education expenses;

(iv) Verifies that scholarships are awarded only to eligible students who are members of a household described in paragraph (c)(6) of this section and who are eligible to enroll at a public elementary or secondary school;

(v) Verifies that the recipient eligible students are solely within the State in accordance with paragraph (c)(7) of this section;

(vi) Awards scholarships with a priority, in accordance with paragraph (c)(8) of this section, for eligible students awarded

a scholarship for the previous school year and, thereafter, for any eligible students who have a sibling who was awarded a scholarship from such SGO; and

(vii) Does not earmark or set aside contributions for scholarships on behalf of any particular student.

(2) *Safe harbor for a single-State SGO whose activities are at least 85 percent scholarship granting activities*—(i) *In general*. If at least 85 percent of a single-State SGO's activities consist of scholarship granting activities (whether pursuant to section 25F, in accordance with State tax credit scholarship rules, or any other scholarship granting activities), then the SGO may apply the operational requirements of paragraph (c)(1) of this section to the organization's section 25F segregated account, rather than to the organization as a whole. For purposes of this paragraph, administrative, fundraising, governance, investment, compliance, outreach, and other activities are treated as scholarship granting activities to the extent each such activity is conducted in support of scholarship granting activities. This activity test is separate from the 90 percent of income spending requirement, for which only expenditures on scholarships for eligible students are taken into account.

(ii) *Application of paragraph (b)(4) of this section to a single-State SGO that qualifies for the safe harbor*. In addition to satisfying the requirement in paragraph (b)(4) of this section at the level of the organization as a whole, such organization also must test and satisfy that requirement at the level of its section 25F segregated account.

(3) *Multistate SGOs*. At least 85 percent of a multistate SGO's activities must consist of scholarship granting activities (whether pursuant to section 25F, in accordance with State tax credit scholarship rules, or any other scholarship granting activities). In addition, a multistate SGO must maintain a separate section 25F segregated account for each covered State on whose State SGO list the SGO appears. The SGO must allow donors to designate how their qualified contribution should be allocated among one or more of those covered States, and all qualified contributions must be deposited into the SGO's section 25F segregated account for one or more of those covered States in accordance with donor designations. The SGO must maintain a complete set of books and records for its section 25F segregated account for each covered State on whose State SGO list the SGO appears. The SGO must meet the requirements of paragraph (c)(1) of this section separately for its section 25F segregated account for each such covered State. Finally, in addition to satisfying the requirement in paragraph (b)(4) of this section at the level of the organization as a whole, such organization also must test and satisfy that requirement at the level of its section 25F segregated account for each covered State on whose State SGO list the SGO appears, provided however that being a disqualified person at the section 25F segregated account level applies only with regard to that section 25F segregated account.

(4) *90 percent of income spending requirement*—(i) *In general*. An SGO must spend not less than 90 percent of the income of the organization, as provided in paragraph (c)(4)(ii) of this section, on scholarships for eligible students solely within the State within the time, and pursuant to the requirements, provided in paragraph (c)(4)(iii) of this section.

(ii) *Income of the organization*—(A) *In general*. Except as provided in paragraph (c)(4)(ii)(B) of this section, income of the organization means the total gross receipts of the organization from all sources computed using the cash receipts and disbursements method of accounting under section 446(c)(1) and § 1.446-1(c)(1)(i) during its annual accounting period, unreduced by any expenses, regardless of the overall method used by the organization in its books and records.

(B) *Meaning of income for purposes of the safe harbor and multistate SGOs.* For a single-State SGO using the safe harbor in paragraph (c)(2) of this section, income of the organization, for purposes of the spending requirement under this paragraph (c)(4)(ii), means the total amount of qualified contributions received by, and earnings credited to, the section 25F segregated account during the taxable year. For a multistate SGO, income of the organization, for purposes of the spending requirement under this paragraph (c)(4)(ii), means the total amount of qualified contributions received by, and earnings credited to, the section 25F segregated account during the taxable year, determined separately for the section 25F segregated account in each covered State.

(iii) *Timing of 90 percent of income spending requirement*—(A) *In general*. An organization must meet the 90 percent of income spending requirement as of the last day of the taxable year following the taxable year in which such income is received, including an organization's short period as set forth in section 443. Thus, satisfaction of the 90 percent of income spending requirement for the SGO's first year of operation does not need to be met until the end of its second year of operation.

(B) *Amounts treated as spent when paid*. For purposes of the 90 percent of income spending requirement, amounts are treated as spent when the amounts are paid under the cash method of accounting described in section 446(c)(1) and § 1.446-1(c)(1)(i).

(C) *Ordering rule.* Amounts are treated as paid from contributions and other income received in the earliest year first, and then from subsequent years in chronological order.

(D) *Treatment of return of excess payment*. An SGO that receives a return of any payments made to a school or vendor that are in excess of the student's costs, or that were disbursed in error, as set forth in paragraphs (c)(5)(iii) and (iv) of this section, respectively, must treat the return as income received in the year of the return and will have until the end of the taxable year following the year of the return to satisfy the 90 percent of income spending requirement with respect to such funds.

(E) *No double counting*. In no event may any amount spent by the SGO be treated as spent in more than one taxable year.

(5) *Verification that scholarships are used solely for qualified elementary or secondary education expenses*—(i) *In general*. An SGO must implement reasonable procedures for the prevention and detection of fraud and abuse, including systems to prevent and detect the duplication of scholarship awards to the same student for the same qualified elementary or secondary education expense that collectively exceed the cost of the expense. In addition, an SGO is required

to verify that scholarship funds are used exclusively for qualified elementary or secondary education expenses in accordance with the allowable methods of payment described in paragraphs (c)(5)(ii) through (v).

(ii) *No funds may be paid directly to the family of the eligible student unless it is a qualified reimbursement*. An SGO will not be treated as satisfying this paragraph (c)(5)(ii) if money is paid to the family of the eligible student, unless the payment is a qualified reimbursement, meaning a reimbursement of expenses for which the family of the eligible student provides a receipt that verifies both that the payment was made and that the expense is a qualified elementary or secondary education expense and, before making the reimbursement, the SGO satisfies its procedures to prevent a single expense from being reimbursed for more than the total cost by more than one source.

(iii) *Direct payments to the school*. Scholarship funds used for payments for tuition, fees, room and board, and other similar expenses described in section 530(b)(3)(A) that are charged by the school must be paid directly to the school. The school must return any payments from the SGO that are in excess of the student's costs or that are disbursed by the SGO in error.

(iv) *Paying other vendors directly*. An SGO will be considered to meet the requirements of this section if it pays a vendor directly for expenses described in section 530(b)(3)(A) and the vendor:

(A) Has been verified as an appropriate provider of such services or items;

(B) Is not related, directly or indirectly, to the scholarship recipient; and

(C) Is required to reimburse the SGO for any payments from the SGO that are in excess of the student's costs or that were disbursed by the SGO in error.

(v) *Qualified digital wallet*. An SGO will be considered to meet the requirements of this section if it uses a qualified digital wallet to pay qualified elementary or secondary education expenses.

(6) *Methods of verifying that a student's household income is not greater than 300 percent of the area median gross income*—(i) *In general*. A scholarship recipient must be an eligible student who satisfies the household income requirement described in section 25F(c)(2)(A), § 1.25F-1(a)(4), and paragraph (c)(6)(ii) of this section. An SGO must use one or more of the methods described in paragraph (c)(6)(iii) of this section to verify that a scholarship recipient is an eligible student who satisfies this household income requirement.

(ii) *Household income requirement*—(A) *Area median gross income.* For purposes of computing the household income limit under section 25F(c)(2)(A) of 300 percent of area median gross income, area median gross income means the income limit determined based on area median gross income and family size in accordance with section 8 of the United States Housing Act of 1937 (Section 8).

(B) *Family size*. Family size is equal to the number of persons who are part of a household. A student's household includes the individual whose status as an eligible student is being determined, as well as each other person residing with that individual. For purposes of determining the number of members of the student's household in situations in which the student resides in more than one household during the calendar year (for example, in cases of shared custody), the relevant household is the one in which the student resides for the longest period of time during the year or, if the time spent by the student in each household is equal, then the household of the taxpayer with the highest household income.

(C) *Household income*. For purposes of determining the household income of a particular eligible student to be measured against the limit established in section 25F(c)(2)(A) and § 1.25F-1(a)(4)(i)(A), the term *household income* means annual income, as defined in 24 CFR 5.609; however, for this purpose, household income must be determined by disregarding the imputed return on net assets (for example, unrealized appreciation in a home or stock). This definition includes receipts by a member of the household in the form of child support and alimony not included in taxable income but excludes non-cash receipts.

(iii) *Permissible verification methods*—(A) *Direct income verification method*. Under the direct income verification method, income may be verified through review of written documentation including pay stubs, prior-year Federal or State tax returns, IRS transcripts, Forms W-2, evidence of other income not reflected on such documents (such as evidence of child support and alimony not reported as income) or a certification that there is none, or may be verified through other relevant data sources.

(B) *Categorical eligibility verification method*. Under the categorical eligibility verification method, income may be verified through written documentation, such as an award letter, dated within the last 12 months, confirming that an individual in the student's household currently is approved for assistance from or participation in Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 housing, or Supplemental Security Income (SSI)).

(C) *Safe harbor for an SGO providing individual scholarships for individual academic tutoring or special needs services at schools in low-income areas*—(*1*) *In general*. If an SGO provides scholarships to individual students at schools in a low-income area for individual academic tutoring, or for special needs services in the case of a special needs student, and the individual students receiving those services are selected by the school on the basis of the particular student's academic or other need, the recipient students will be treated as satisfying the requirements in section 25F(c)(2)(A) and § 1.25F-1(a)(4), whether or not the student's household income is verified, if either:

(*i)* The school is located in a qualified census tract as identified at *https://www.huduser.gov/portal/sadda/sadda_qct.html* (or a tract identified in future guidance); or

(*ii*) The school certifies that at least 80 percent of its students reside in such a qualified census tract, regardless of the location of the school.

(*2*) *Requirements for safe harbor*. An SGO using the safe harbor described in paragraph (c)(6)(iii)(C) of this section must annually obtain, and provide to the covered State, a third-party audit to certify that:

(*i*) The school meets the eligibility requirement in paragraph (c)(6)(iii)(C)(*1*)(*i*) or (*ii)* of this section;

(*ii*) The scholarship recipients were selected by the school based on academic or special need;

(*iii*) Tutors or other providers were qualified to render the services;

(*iv*) The student's need for the services, including the nature and extent of the services needed, is independently diagnosed by a professional not associated with the provider or vendor of the services; and

(*v*) The services met appropriate quality standards, were provided with a duration and frequency commonly required to produce benefit, and their impact on each individual scholarship recipient was assessed.

(D) *Safe harbor for foster children*. An eligible student who is a foster child will be treated as satisfying the requirements in section 25F(c)(2)(A) and § 1.25F-1(a)(4)(i)(A), whether or not the student's household income is verified.

(7) *Students solely within the State*—(i) *In general*. An SGO must ensure that qualified contributions are used to fund scholarships that are awarded to eligible students solely within the State on whose State SGO list the SGO appears. Except as provided in paragraph (c)(7)(ii) of this section, an eligible student is considered solely within a State only if the eligible student resides in that State in accordance with State law. Attending school in a State or purchasing goods or services in a State is not sufficient to treat the student as being solely within a State.

(ii) *Exceptions*. A student who is a dependent (as defined in section 152) of a member of the Armed Forces of the United States will be treated as solely within both the State of the domicile of the student and the State in which that member of the Armed Forces is residing. In addition, a student who is a dependent (as defined in section 152) of an individual residing on Indian Lands (as defined in 25 U.S.C. 3501(2)) will be treated as solely within both the State of the student's residence and the State in which the student attends school.

(iii) *Examples.* The application of this paragraph (c)(7) is illustrated by the following examples.

(A) *Example 1*. Organization EF is an SGO that operates only in State X and is on the IRS SGO list under State X for 2027. Student A resides in State X and attends school in State Y. Student B both resides and attends school in State Y. Neither student is in a military or Tribal family as described in paragraph (c)(7)(ii) of this section. Student A, but not Student B, is an eligible student solely within the State in which EF is listed as an SGO for purposes of section 25F. Thus, EF can award a scholarship from its section 25F segregated account to Student A, but not to Student B.

(B) *Example 2*. Organization GH is an SGO that operates in State X and State Y and is on the IRS SGO list under both State X and State Y for 2027. GH is not on the State SGO list of any other covered State. Student A resides in State X and attends school in State Y. Student B both resides and attends school in State Y. Student C resides in State Z and attends school in State Y. None of these students is in a military or Tribal family as described in paragraph (c)(7)(ii) of this section. Student A and Student B, but not Student C, are eligible students solely within the States in which GH qualifies as an SGO. Thus, GH can award a scholarship from its State X section 25F segregated account to Student A, and can award a scholarship from its State Y section 25F segregated account to Student B. However, GH cannot award a scholarship to Student C.

(8) *Priority in awarding scholarships.* In complying with section 25F(d)(1)(D), which requires that scholarships be awarded with priority consideration being given to eligible students awarded a scholarship for the previous school year and, thereafter, to any eligible students solely within the State who have a sibling who was awarded a scholarship from that SGO, an SGO has flexibility to consider the particular needs of potential scholarship recipients and the type of expenses for which the scholarship is being awarded. For example, a prior scholarship recipient should be given priority with regard to an award for tuition, fees, and room and board to ensure that the eligible student is able to continue attending the same school. Similarly, the siblings of such an award recipient should be given priority so that siblings are able to attend the same school. However, if a scholarship is awarded based on need for individual academic tutoring or special needs services, the fact that a student was a previous scholarship recipient, or that a student has a sibling who was a previous scholarship recipient, may not be relevant and priority instead can be based on need for the services.

(d) *Disqualified person*—(1) *In general.* The term disqualified person means, with respect to an SGO, a person who is:

(i) A substantial contributor to the SGO or to the section 25F segregated account, as defined in paragraph (d)(2) of this section;

(ii) An officer, director, or trustee of the SGO, as well as an individual having powers and responsibilities similar to those of such persons;

(iii) Any individual participating in, including as a member of a committee, the selection of scholarship recipients or the determination of scholarship awards; and

(iv) A member of the family, as defined in paragraph (d)(3) of this section, of any individual described in paragraph (d)(1)(i), (ii), or (iii) of this section.

(2) *Substantial contributor*—(i) *In general*. The term substantial contributor means any person who contributed an aggregate amount of more than $5,000 to the SGO during the taxable year, if such amount is more than 2 percent of the total contributions received by the SGO during the taxable year. For this purpose, an individual will be treated as making all contributions made by his or her spouse. In addition, the term substantial contributor means any person who contributed an aggregate amount of more than $5,000 to a section 25F segregated account during the taxable year, if such amount is more than 2 percent of the total contributions received by the section 25F segregated account during the taxable year. A person's status as a substantial contributor is determined as of the close of each taxable year of the SGO.

(ii) *Excepted scholarships*. A scholarship awarded by an SGO to a substantial contributor or a substantial contributor's family member will not be treated as an award to a disqualified person if, at the time the scholarship was awarded:

(A) The recipient would not have been a disqualified person had the substantial contributor determination been made as of the date of the award, based on contributions received by the SGO through that date; and

(B) The SGO did not know and did not reasonably expect that the recipient would be a disqualified person based on the substantial contributor determination made as of the close of the taxable year.

(3) *Member of the family*—(i) *In general*. The family of any individual includes only:

(A) The individual's spouse;

(B) The ancestors and descendants of the individual or the individual's spouse;

(C) The siblings of the individual or the individual's spouse;

(D) The descendants of siblings described in paragraph (d)(3)(i)(C) of this section; and

(E) The spouse of any individual described in paragraph (d)(3)(i)(B), (C), or (D) of this section.

(ii) *Descendant*. For purposes of this paragraph (d)(3)(ii), an individual's legally adopted child and an individual's step-child are each treated as a descendant of that individual.

(4) *Duration of disqualified person status*—(i) *Substantial contributor to the SGO*. An individual described in paragraph (d)(1)(i) of this section will be treated as a substantial contributor for any taxable year of the SGO in which the individual is so described and for the immediately succeeding taxable year of the SGO.

(ii) *Officers, directors, trustees, individuals having similar powers and responsibilities, and individuals involved in selecting scholarship recipients*. An individual described in paragraph (d)(1)(ii) or (iii) of this section will be treated as a disqualified person for so long as the individual is so described. An individual who ceases to be described in paragraph (d)(1)(ii) or (iii) of this section will continue to be treated as a disqualified person through the end of the taxable year of the SGO in which such cessation occurs and through the end of the immediately succeeding taxable year of the SGO.

(iii) *Members of the family*. An individual described in paragraph (d)(1)(iv) of this section is a disqualified person by virtue of that paragraph only while any family member is treated as a disqualified person under paragraph (d)(1)(i), (ii), or (iii) of this section.

(5) *Examples*. The following examples illustrate the application of this paragraph (d):

(i) *Example 1: Determination of substantial contributor status*—(A) *Facts.* On May 2, 2027, Taxpayer A, an individual, gave $6,000 to O, an SGO operating on a calendar year basis. As of May 2, 2027, O had received $250,000 from all sources as total contributions and bequests, including A's contribution, during the calendar year 2027. Between May 3, 2027, and December 31, 2027, O received $200,000 in contributions and bequests from others. Therefore, as of December 31, 2027, O had received $450,000 from all sources as total contributions and bequests during the year, and A's $6,000 contribution represented 1.33 percent of the total contributions and bequests received by O during 2027. Neither A nor any other family member of A is a disqualified person for any reason other than possible status as a substantial contributor.

(B) *Analysis*. A is not a substantial contributor to O for the tax year ending December 31, 2027, since A's contributions to O were not more than 2 percent of the total contributions and bequests received by O during its taxable year that ended on December 31, 2027.

(ii) *Example 2: Duration of disqualified person status*—(A) *Facts*. On July 1, 2027, Taxpayer B, an individual, gave $6,000 to P, an SGO operating on a calendar year basis. As of July 1, 2027, P had received $250,000 from all sources as total contributions and bequests, including B's contribution, during the calendar year 2027. Between July 2, 2027, and December 31, 2027, P received $30,000 in contributions and bequests. Therefore, as of December 31, 2027, P had received $280,000 from all sources as total contributions and bequests during the year, and B's $6,000 contribution represented 2.14 percent of P's total contributions and bequests during 2027. Neither B nor any other family member of B is a disqualified person for any reason other than possible status as a substantial contributor.

(B) *Analysis*. B will be treated as a substantial contributor for the tax year ending December 31, 2027, and for the following tax year ending December 31, 2028. Generally, any scholarships awarded to B's family members during the tax years ending December 31, 2027, or December 31, 2028, will be treated as scholarships awarded to a disqualified person. However, any scholarship awards made to B's family members prior to July 1, 2027, may qualify as an excepted scholarship if the requirements of paragraph (d)(2)(ii) of this section are met.

(iii) *Example 3: Excepted scholarship*—(A) *Facts.* On February 10, 2027, Taxpayer C, an individual, gave $7,000 to Q, an SGO operating on a calendar year basis. As of August 15, 2027, Q had received $400,000 from all sources as total contributions and bequests, including C's contribution, during the calendar year 2027. Q awarded a scholarship to C's daughter on August 15, 2027. Neither C nor any other family member of C is a disqualified person for any reason other than possible status as a substantial contributor. C did not make a pledge or otherwise inform Q of any intent to make additional contributions during 2027, and Q had no reason to anticipate any additional contribution from C during 2027. Nevertheless, on November 16, 2027, C gave an additional $7,000 to Q. As of December 31, 2027, Q had received $650,000 from all sources as total contributions and bequests during the year, and C's total contributions of $14,000 represented 2.15 percent of Q's total contributions and bequests during 2027.

(B) *Analysis*. Because C's contributions exceeded $5,000 and 2 percent of Q's total contributions and bequests for the tax year ending December 31, 2027, C is a substantial contributor for that tax year and for the succeeding tax year. However, had the substantial contributor determination been made as of the date of the award (August 15, 2027) based on contributions received by the organization through that date ($400,000), C would not have been considered a substantial contributor because C's contributions were not more than 2 percent of the total contributions received by Q by the date of the award. Further, as of August 15, 2027, Q did not know or have reason to expect that C would make an additional contribution to Q during 2027, resulting in C becoming a substantial contributor by the end of 2027. Based on these circumstances, the scholarship awarded to C's daughter on August 15, 2027, will not be treated as a scholarship awarded to a disqualified person by reason of paragraph (d)(2)(ii) of this section. However, C is otherwise considered a disqualified person for the tax years ending December 31, 2027, and December 31, 2028, and any scholarships awarded to C's family members in 2028 will be treated as scholarships awarded to a disqualified person.

(e) *Applicability date*. This section applies to taxable years ending on or after [date of publication of the final regulations in the **Federal Register**].

### § 1.25F-4 Reporting and recordkeeping requirements for SGOs.

(a) *Overview*. This section provides reporting and recordkeeping requirements for organizations relating to the credit determined under section 25F of the Internal Revenue Code (Code). Paragraph (b) of this section provides that each organization that receives an amount designated as a qualified contribution must complete a mandatory registration process through the IRS SGO portal. Paragraph (c) of this section provides the requirements for an organization's acknowledgement, recordkeeping and reporting for the receipt of amounts designated as qualified contributions. Paragraph (d) of this section details annual reporting requirements for organizations included on a State SGO list for any part of a calendar year within the organization's taxable year. Paragraph (e) of this section describes the annual financial and programmatic audit requirement.

(b) *Mandatory registration through IRS SGO portal*—(1) *In general*. Except to the extent otherwise provided in guidance, an organization that plans to solicit qualified contributions must electronically register through the IRS scholarship granting organization (SGO) portal in accordance with the instructions provided therein. Registration through the IRS SGO portal will allow the organization to obtain instructions for creating a unique donor number in the uniform format to be used by all SGOs, authorize disclosure of its name and identifying information on the IRS SGO list, and report qualified contribution information.

An organization must authorize disclosure in accordance with section 6103(c) of its name and identifying information on the IRS SGO list for a calendar year if the organization wants the IRS to publish such information on the IRS SGO list for that year.

(2) *Time for registration through IRS SGO portal.* An organization must register with the IRS as soon as possible and preferably before the organization appears on any State SGO list. Until the organization has registered in the IRS SGO portal, the organization will not be able to comply with the acknowledgement and reporting requirements in paragraph (c) of this section, which is a necessary part of substantiating that a donor's qualified contribution is eligible for the credit allowed under section 25F.

(3) *Information required to complete registration*. An organization must provide the following information to the IRS to register in the IRS SGO portal*:*

(i) The organization's name, IRS employer identification number (EIN), address, telephone number, and year of formation;

(ii) The name of a person whom the IRS may contact if there is an issue with the registration, and who either possesses legal authority to bind the organization or provides a properly executed power of attorney on Form 2848, *Power of Attorney and Declaration of Representative*;

(iii) The organization's taxable year; and

(iv) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as provided in guidance.

(4) *Donor number.* The IRS will review the registration submission to verify that all the required information has been submitted and will provide the organization with instructions for creating a unique donor number for each donor who has designated at least one payment to the organization as a qualified contribution to the SGO during the calendar year.

(c) *Acknowledgement and reporting of qualified contributions received by SGOs*—(1) *Reporting to donor*—(i) *In general.* An organization must provide a timely written acknowledgement to each donor that includes the following information:

(A) The organization's EIN;

(B) The total amount of contributions made by the donor to the organization during the calendar year that the donor designated as qualified contributions;

(C) The unique donor number the organization created for the donor in accordance with paragraph (b)(4) of this section;

(D) A statement as to whether or not the organization provided any goods or services in consideration, in whole or in part, for any qualified contributions made by the donor to the SGO during the calendar year; and

(E) A description and good faith estimate of the value of any goods or services described in paragraph (c)(1)(i)(D) of this section, if any.

(ii) *Time and manner of providing timely written acknowledgement.* An organization must provide the timely written acknowledgement no later than January 31 of the calendar year following the calendar year in which a donor made a qualified contribution to the organization. The timely written acknowledgement can be provided in writing or in any other form acceptable to the donor, including by electronic delivery if the donor consents to receive the statement electronically and does not withdraw the consent before the statement is furnished.

(2) *Reporting qualified contributions to the IRS*—(i) *In general*. An organization must annually report to the IRS the following information with respect to each unique donor number assigned by the organization as set forth in paragraph (b)(4) of this section:

(A) The donor's name;

(B) The donor's address;

(C) The aggregate amount of qualified contributions made by the donor to the organization during the calendar year; and

(D) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(ii) *Time and manner of reporting.* An organization must report the information described in paragraph (c)(2)(i) of this section no later than February 28 of the year following the year in which such qualified contributions were made. Unless otherwise provided in guidance, the reporting must be done through the IRS SGO portal in accordance with the instructions provided therein.

(d) *Reporting operational information to the IRS*—(1) *In general*. An organization that has been included on a State SGO list for any part of a calendar year within its taxable year must annually provide a certification and certain information to the IRS. Paragraph (d)(2) of this section provides rules relating to the annual certification. Paragraph (d)(3) of this section provides rules relating to information that must be reported. Paragraph (d)(4) of this section provides the time and manner of reporting.

(2) *Annual certification*—(i) *In general*. An organization that was an SGO for any part of a calendar year within its taxable year must certify that, with respect to its taxable year (or the period during which it was an SGO, if not the entire year), such organization:

(A) Was described in section 501(c)(3), exempt from tax pursuant to section 501(a), and not a private foundation, as defined in section 509(a);

(B) Prevented the co-mingling of qualified contributions with other amounts by maintaining a section 25F segregated account, which must contain only qualified contributions and the earnings therefrom, for each covered State on whose State SGO list the SGO appears, deposited all qualified contributions into that section 25F segregated account, and maintained a complete set of books and records for that section 25F segregated account;

(C) Satisfied the operational requirements of section 25F(d)(1) and § 1.25F-3(c);

(D) Did not award a scholarship to any disqualified person, as tested at the organizational level and as tested at the section 25F segregated account level solely for that section 25F segregated account by each single-State SGO using the safe harbor in § 1.25F-3(c)(2) and by each multistate SGO;

(E) Was located in each State on whose State SGO list the organization was listed;

(F) Provided each donor a timely written acknowledgement; and

(G*)* Commissioned a financial and programmatic audit described in paragraph (e) of this section by a qualified independent third party and provided the audit report to each covered State on whose State SGO list the organization was listed.

(ii) *Additional certifications relating to operational requirements—(A) Single-State SGO*. A single-State SGO must certify that it—

(*1*) Provided scholarships to 10 or more students, not all of whom attended the same school;

(*2*) Spent not less than 90 percent of the income of the organization on scholarships for eligible students;

(*3*) Verified that scholarships were used solely for qualified elementary or secondary education expenses;

(*4*) Verified that scholarships were awarded only to eligible students who were members of an eligible household and who were eligible to enroll at a public elementary or secondary school;

(*5*) Verified that the recipient eligible students were solely within the State;

(*6*) Awarded scholarships with a priority (as provided in § 1.25F-3(c)(8)) for eligible students awarded a scholarship for the previous school year and, thereafter, for any eligible students who have a sibling who was awarded a scholarship from such SGO;

(*7*) Did not earmark or set aside contributions for scholarships on behalf of any particular student; and

(*8*) If the organization used the safe harbor found in § 1.25F-3(c)(6)(iii)(C) for providing individual scholarships for individual academic tutoring or special needs services at schools in low-income areas, that it obtained a third-party audit and provided the audit report to the covered State in accordance with § 1.25F-3(c)(6)(iii)(C)(*2*).

(B) *Single-State SGO using the safe harbor found in § 1.25F-3(c)(2).* If a single-State SGO used the safe harbor found in § 1.25F-3(c)(2), then it must certify that--

(*1*) At least 85 percent of the organization's activities during the taxable year were scholarship granting activities and

(*2*) Each of the elements of paragraph (d)(2)(ii)(A) was met with respect to the organization's section 25F segregated account.

(C) *Multistate SGO*. If an organization was a multistate SGO for any part of a calendar year within its taxable year, then it must certify that, with respect to its taxable year (or the period during which it was an SGO, if not the entire taxable year):

(*1*) At least 85 percent of the organization's activities during the taxable year were scholarship granting activities, and

(*2*) Each of the elements of paragraph (d)(2)(ii)(A) of this section was met separately with respect to the organization's section 25F segregated account for each covered State on whose State SGO list the SGO appeared.

(3) *Required annual information*—(i) *In general*. An organization that was a single-State SGO for any part of a calendar year within its taxable year must report, with respect to its taxable year (or the period during which it was an SGO, if not the entire taxable year), the following information:

(A) The number of students that applied for a scholarship;

(B) The number of students selected for a scholarship in accordance with the safe harbor in § 1.25F-3(c)(6)(iii)(C);

(C) The number of scholarships awarded;

(D) The highest, lowest, and average amount of the scholarships awarded;

(E) The number of schools at which the scholarship recipients were enrolled;

(F) Aggregate data on each category of qualified elementary and secondary education expenses for which scholarship funds were used;

(G) The amount of the organization's income;

(H) With regard to the amounts spent on scholarships for eligible students solely within the State during the taxable year:

(*1*) The total amount spent during the year; and

(*2*) Of the total amount spent during the year, the amount counted as satisfying the 90 percent of income spending requirement for the prior year, and the amount counted as satisfying that requirement for the current year;

(I) The percentage of the prior year's income spent on scholarships for eligible students solely within the State, taking into account the amounts spent in both the prior and current years;

(J) The percentage of the current year's income spent on scholarships for eligible students solely within the State; and

(K) Any other information required in accordance with guidance.

(ii) *Single-State SGO using the safe harbor found in § 1.25F-3(c)(2)*. A single-State SGO using the safe harbor found in § 1.25F-3(c)(2) must report the information described in paragraph (d)(3)(i) of this section with respect to its section 25F segregated account, rather than with respect to the organization as a whole.

(iii) *Multistate SGO*. An organization that was a multistate SGO for any part of a calendar year within its taxable year must provide the information described in paragraph (d)(3)(i) of this section separately with regard to its section 25F segregated account for each covered State on whose State SGO list the organization appears.

(4) *Time and manner of reporting*. Except to the extent otherwise provided in guidance, the certification and information required by paragraphs (d)(2) and (3) of this section must be provided at such time and in such manner as the IRS may prescribe by publication, form, or instructions. For organizations required to file an annual information return under section 6033(a), the required form must be included as an attachment. An organization that is not required to file an annual information return under section 6033(a) must provide this form separately to the IRS on or before the 15th day of the 5th calendar month following the close of the period for which the form reports the required certifications and information. Organizations must concurrently provide a copy of the form to each State on whose State SGO list the organization appears in accordance with guidance.

(e) *Required audits*—(1) *In general*. Each organization that was an SGO during any part of the preceding taxable year must undergo an annual financial and programmatic audit by a qualified independent third party and provide the audit results to each covered State on whose State SGO list the SGO appeared (or, if a multistate SGO, to each covered State on whose State SGO list the SGO appeared).

(2) *Qualified independent third party*—(i) *Organizations with annual receipts exceeding $500,000.* An organization whose total receipts (whether or not required to be deposited into its section 25F segregated account) for the most recent taxable year were more than $500,000 must hire an external, independent professional or accredited body that regularly assesses an organization's compliance, financial records, or processes

(including internal controls) against specific standards to perform the audit required by this paragraph (e).

(ii) *Organizations with annual receipts of $500,000 or less*. An organization whose total receipts for the taxable year did not exceed $500,000 may use a committee of independent persons unrelated to the organization's management to conduct the audit required by this paragraph (e). The report must be signed under penalties of perjury by the persons preparing such report.

(3) *Content of audit.* The audit required by this paragraph (e) must cover, at a minimum:

(i) The organization's procedures for soliciting scholarship applications or otherwise identifying possible scholarship recipients from eligible students in the State, for verifying each such student's eligibility, and for processing scholarship applications;

(ii) The organization's procedures for selecting scholarship recipients, including procedures to establish priority for students previously awarded a scholarship and then any eligible students who have a sibling who was awarded a scholarship from such organization, and procedures to prevent the award of a scholarship to a disqualified person as defined in § 1.25F-3(d);

(iii) The organization's procedures for determining the amount of the scholarship awarded to each recipient;

(iv) The method(s) the organization uses to track how scholarship money for qualified elementary and secondary education expenses is paid (whether by direct payment, through a qualified digital wallet, or by reimbursement);

(v) Verification that scholarship expenses were qualified elementary and secondary education expenses;

(vi) Verification that the organization is located within the State; and

(vii) Verification that the organization met all of the operational requirements in § 1.25F-3(c).

(4) *Scope of audit*. The audit required by this paragraph (e) must assess compliance with the elements listed in paragraph (e)(3) of this section generally consistent with the scope of the reporting requirements applicable to the SGO. Thus, the audit regarding items described in paragraphs (e)(3)(i) through (vi) of this section should be done at the section 25F segregated account level, but the audit regarding the items described in paragraph (e)(3)(vii) of this section should be done consistent with the operational requirements set forth in § 1.25F-3(c)(1), (2), or (3), as applicable to the SGO.

(f) *Applicability date*. This section applies to taxable years ending on or after [date of publication of the final regulations in the **Federal Register**].

**§ 1.25F-5 State election, State SGO list, and certification of SGOs.**

(a) *Overview.* This section provides rules under section 25F(g) of the Internal Revenue Code (Code) for a State election and participation under section 25F. Paragraph (b) of this section describes the IRS State section 25F portal used for the submission of State elections and State scholarship granting organization (SGO) lists and the reporting of any changes to State SGO lists and other required information. Paragraph (c) of this section provides rules for the State election, including an advance election, and the provision of the State SGO list. Paragraph (d) of this section provides rules regarding State SGO lists. Paragraph (e) of this section provides general guidance regarding Federal review of the policies and procedures States adopt for SGOs.

(b) *IRS State section 25F portal*—(1) *In general.* A State that chooses to participate under section 25F must register in the IRS State section 25F portal in accordance with the instructions therein. Registration requires obtaining or being assigned a special-purpose employer identification number (EIN) in accordance with paragraph (b)(3) of this section and then providing the information required by paragraph (b)(4) of this section. At the conclusion of the registration process, a State will be able to electronically transmit through the IRS State section 25F portal its State election (including an advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required by future guidance.

(2) *Delegation*—(i) *In general*. The Governor of the State or such other individual, agency, or entity as is designated under State law to make elections with respect to Federal tax benefits on behalf of the State may authorize up to two designated officials, as described in paragraph (b)(2)(ii) of this section, to register for and use the IRS State section 25F portal. The State must provide any information and documentation necessary, in accordance with future guidance, to establish an individual's authority to use the IRS State section 25F portal on behalf of the State.

(ii) *Designated officials*. A designated official for purposes of the delegation described in paragraph (b)(2)(i) of this section must be one of the following individuals:

(A) An elected official;

(B) The Director of Taxation; or

(C) An appointed official.

(3) *Special-purpose EIN.* Before a State may begin the registration process for the IRS State section 25F portal, the State must obtain or be assigned a special-purpose EIN, to be used only for purposes of section 25F, in accordance with applicable IRS guidance. The State may not obtain its own special-purpose EIN using the general guidance for obtaining an EIN set forth in § 301.6109-1(d)(2)(i) of this chapter. The special purpose EIN cannot be used for any other purpose under the Code.

(4) *Information required to complete registration.* A State must provide the following information to complete the registration process for the IRS State section 25F portal:

(i) The State's special-purpose EIN obtained or assigned in accordance with paragraph (b)(3) of this section;

(ii) Contact information, including the name, official title, telephone number, and email address of each of the State's designated officials (if any) authorized as provided in paragraph (b)(2) of this section; and

(iii) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(c) *State election*—(1) *In general.* Except as provided in paragraph (c)(3)(i)(B) of this section (providing a special rule for the first year a State makes an election), a State election may be made either as an advance election that is perfected, as described in paragraph (c)(3) of this section, or as an election made as part

of the submission of the State SGO list, as described in paragraph (c)(4) of this section. The State election is made only for a single calendar year, and all the requirements in this paragraph (c) must be satisfied for each year for which an election is made.

(2) *Authority to make a State's election.* A State election, including an advance election, must be made either by the Governor of the State (or the Mayor of the District of Columbia) or by such other individual, agency, or entity as is designated under State law to make such elections with respect to Federal tax benefits on behalf of the State.

(3) *Advance election*—(i) *Submission of advance election*—(A) *In general*. Except as provided in the transition rule in paragraph (c)(3)(i)(B) of this section (or as otherwise provided in guidance), a State may submit an advance election through the IRS State section 25F portal on or after January 2 and on or before September 30 of the calendar year immediately preceding the calendar year for which the election is being made. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

(B) *Transition rule for the first calendar year for which the State makes an elect*ion—(*1*) *Calendar year 2027*. For calendar year 2027 only, a State must submit an advance election on Form 15714, *Advance Election to Participate Under Section 25F for 2027*, on or before January 1, 2027. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

(*2*) *Future years*. For calendar years after 2027, a State making its first election to participate under section 25F must submit an advance election as provided in future guidance.

(ii) *Perfection of advance election*—(A) *In general*. Except as provided in paragraph (c)(3)(ii)(B) of this section, if a State has submitted an advance election in accordance with paragraph (c)(3)(i) of this section, the State must perfect its election by providing its State SGO list for a calendar year, with the information and certifications required in paragraph (c)(5) of this section, on or before January 1 of that year, but not earlier than October 1 of the immediately preceding calendar year.

(B) *Transition rule for the first calendar year for which section 25F applies*. For calendar year 2027 only, a State may provide its State SGO list on or before February 15, 2027.

(C) *Failure to perfect*. Because a State that makes an advance election is required by section 25F(g) to provide its State SGO list as part of its State election, a failure to perfect its advance election within the time period set forth in this paragraph (c)(3)(ii) would result in a failure to meet the requirements of section 25F(g). Accordingly, no organization in that State would qualify as an SGO for the calendar year for which the advance election was not perfected.

(iii) *IRS advance election list*. The IRS will maintain and publish on *https://www.irs.gov* a list of States that have made an advance election.

(4) *Election with submission of the State SGO list*. Except for the first year for which the State makes its election (see paragraph (c)(3)(i)(B) of this section), a State may make its State election for a calendar year when the State submits its State SGO list for that year by providing its State election and State SGO list for that calendar year, with the information and certifications required in paragraph (c)(5) of this section, on or before January 1 of that year, but not earlier than October 1 of the immediately preceding calendar year.

(5) *Certifications and other required information.* As part of providing a State election and the State SGO list under this paragraph (c), the person with authority to make the State election, as described in paragraph (c)(2) of this section, or a designated official as described in paragraph (b)(2) of this section, must, in accordance with future guidance:

(i) Certify that the individual, agency, or entity making the State election has the authority to make the State election on behalf of the State;

(ii) Certify that the person authorizing any individuals as designated officials under paragraph (b)(2) of this section has the authority to do so;

(iii) Provide the enacted statutory or regulatory provisions that are binding on the State and establish the authority of an individual to make the election on behalf of the State, if the individual making the election is not the Governor of the State (or the Mayor of the District of Columbia);

(iv*)* Provide the information and certifications required by paragraphs (d)(2) and (3) of this section for each SGO on the State SGO list;

(v) Certify that the State SGO list includes every organization located in the State that is described in section 25F(c)(5)(A) and (B) and § 1.25F-3(b)(1) through (4) and (6), is seeking inclusion on the State SGO list, and is operating in a manner that satisfies the operational requirements in section 25F(d) and § 1.25F-3(c) and the applicable State requirements described in paragraph (e)(1) of this section;

(vi) Provide the certification of State procedures as required by paragraph (d)(6) of this section;

(vii*)* Describe any tax credit (including relevant State statutes, regulations, and other authoritative guidance) available under State law for contributions made to SGOs during the calendar year for which the State is electing to participate under section 25F; and

(viii*)* Provide any other information and certifications described in future guidance.

(d) *State SGO lists*—(1) *In general.* Except to the extent otherwise provided in future guidance, a State must provide its State SGO list and include the information and certifications required under paragraphs (d)(2) and (3) of this section as part of its State election. Paragraph (d)(4) of this section provides a transition rule for an organization that has not yet been required to provide information and certifications to the IRS. Paragraph (d)(5) of this section provides a procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS. Paragraph (d)(6) of this section requires a State to provide a certification regarding its policies and procedures for determining whether an organization is included on the State SGO list. Paragraph (d)(7) of this section provides rules for changes to a State SGO list, and paragraph (d)(8) of this section provides rules for the removal of an SGO from the IRS SGO list. Paragraph (d)(9) of this section provides for the publication of the names of covered States and

their State SGO lists on *https://www.irs.gov*.

(2) *Required SGO information.* For each organization named on the State SGO list, a State must provide:

(i) The name, EIN, address, and telephone number of the organization;

(ii) The Federal tax-exempt status of the organization, meaning that it either is currently described in section 501(c)(3), exempt from tax under section 501(a), and not a private foundation as defined in section 509(a), or, if paragraph (d)(5) of this section applies, that its application for recognition of tax-exempt status is pending with the IRS; and

(iii) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(3) *Required SGO certifications*. Except as provided for the transition rule in paragraph (d)(4) of this section, for each organization named on the State SGO list, the State must certify that:

(i) The organization is located in the State;

(ii) The organization prevents the co-mingling of qualified contributions with other amounts by maintaining a section 25F segregated account, which must contain only qualified contributions and the earnings therefrom, depositing all qualified contributions into its section 25F segregated account and maintaining a complete set of books and records for its section 25F segregated account;

(iii) The organization meets all the operational requirements described in section 25F(d) and § 1.25F-3(c);

(iv) As part of the State's determination that an organization is or will be an SGO, the State has:

(A) Determined whether the organization is or will be a single-State SGO or a multistate SGO;

(B) Reviewed the annual financial and programmatic audit report the organization is required to provide to the State in accordance with § 1.25F-4(e);

(C) Reviewed the annual certifications and other information the organization is required to provide to the IRS in accordance with § 1.25F-4(d); and

(D) Investigated any failure by the SGO to provide the required certifications and other information in accordance with § 1.25F-4, and, with respect to any such failure, has become reasonably satisfied that the SGO has corrected the failure, if possible, or has put in place procedures to prevent future failures in a manner that satisfies the State that the SGO will satisfy the requirements to be an SGO located in the State; and

(v) The organization satisfies any other requirements the IRS deems necessary for purposes of administering section 25F as may be described in future guidance.

(4) *Transition rule for an organization that has not yet been required to provide information and certifications to the IRS.* Until an organization first provides the information described in § 1.25F-4(d) and (e), a State may rely, in determining whether the organization may be treated as an SGO, on the organization's governing documents or bylaws, written policies and procedures, and other documentation the organization provides to the State as part of its submission requesting inclusion on the State SGO list. However, for each year during this transition period for which the organization is listed as an SGO on the State SGO list, the State must:

(i) Determine that the SGO satisfies all requirements of section 25F(c)(5)(A) and (B);

(ii) Determine that the SGO's provisions, policies, and procedures expressly require (beyond a general requirement to comply with applicable law) the SGO to satisfy the operational requirements for an SGO in section 25F(d) and § 1.25F-3(c);

(iii) Determine that the documentation and information available to the State evidences the SGO's ability and intent to satisfy the operational requirements in section 25F(d) and § 1.25F-3(c); and

(iv) Require the SGO to concurrently provide the State with a copy of any information and certifications required to be provided to the IRS before the end of the transition period in accordance with § 1.25F-4(d).

(5) *Procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS.* A State SGO list may include organizations whose applications for recognition of tax-exempt status are pending with the IRS as of the date of submission of the State SGO list if the State includes on its State SGO list all organizations seeking inclusion on the State SGO list whose application for recognition of tax-exempt status is then pending with the IRS, provides the information and certifications required under paragraphs (d)(2) and (3) of this section for each such organization, and certifies, for each such organization, that:

(i) The organization has applied for, but has not yet received, IRS recognition of its status as an organization described in section 501(c)(3);

(ii) The organization's tax-exempt status, if granted, will be effective retroactively to a date that is on or before January 1 of the year for which the State SGO list applies;

(iii) The State SGO list indicates that such organization's tax-exempt status is pending IRS recognition; and

(iv) The State has complied with the requirements of paragraph (d)(4) of this section for each such organization.

(6) *Certification of State policies and procedures.* A State must certify that its policies and procedures, including its procedures for assessing and responding to audit results:

(i) Enable the State to make its own determination that each organization on the State SGO list is located in the State, is in compliance with the requirements of section 25F(c)(5)(A) and (B) and § 1.25F-3(b)(1) through (4) and (6), and is operating in a manner that satisfies the operational requirements in section 25F(d) and § 1.25F-3(c) and the applicable State requirements described in paragraph (e)(1) of this section;

(ii) Provide for the prompt removal of an organization from the State SGO list, and notification to the IRS through the IRS State section 25F portal, upon a determination that the organization does not satisfy each of the required criteria referenced in paragraph (d)(6)(i) of this section;

(iii) Require that any publicly available list of SGOs maintained by the State is identical to the most recently submitted State SGO list, includes the IRS SGO list's URL (Uniform Resource Locator), and states that a taxpayer may rely on an organization's inclusion on the IRS SGO list in accordance with § 1.25F-2(b); and

(iv) Ensure that the State's procedures before and after the removal of an organi-

zation from the State SGO list are fairly administered and afford due process in accordance with applicable Federal and State laws.

(7) *Changes to State SGO list*—(i) *Changes before the deadline for the elected calendar year*. A State may replace or supplement its State SGO list for a calendar year at any time before the deadline for perfecting or completing an election for that year by submitting the change in the IRS State section 25F portal in accordance with future guidance.

(ii) *Additions to State SGO list after the deadline for the elected calendar year*.

Except to the extent provided otherwise in guidance, a State may not make any additions to the State SGO list for a calendar year after the deadline provided in paragraph (c)(3)(ii) or (c)(4) of this section, as applicable. Any additions a State seeks to make after that deadline may be included as part of the State's submission of its State SGO list for the following calendar year.

(iii) *Removal from State SGO list*—(A) *Removal request from SGO*. If an SGO requests to be removed from a State SGO list, a State must comply, indicate the removal and its effective date on that list, and promptly notify the IRS of that removal through the IRS State section 25F portal so the IRS can remove the SGO from the IRS SGO list for the current year.

(B) *State removal procedures*. A State may remove an SGO from its State SGO list if the State determines, through a procedure providing due process to the organization, that the SGO is not located in the State, or that the SGO does not satisfy the requirements for an SGO in section 25F(c)(5) or (d), § 1.25F-3(b) or (c), or the applicable State requirements described in paragraph (e)(1) of this section. The State must promptly notify the IRS of the removal and its effective date through the IRS State section 25F portal.

(8) *Removal of a non-compliant organization from the IRS SGO list.* An organization may be removed from the IRS SGO list, and will be shown on that list as having been removed as of the date the IRS removes the organization from that list, in the following circumstances:

(i) *Removal following change in tax-exempt status*. The IRS will remove an organization from the IRS SGO list if:

(A) The organization is not described in section 501(c)(3) and exempt from tax under section 501(a); or

(B) The organization is a private foundation.

(ii) *IRS determination of non-compliance with applicable requirements*. The IRS may remove an organization from the IRS SGO list following a determination that the organization has failed to comply with a requirement of section 25F or § 1.25F-3 (other than the tax-exempt status requirement in section 25F(c)(5)(A) and § 1.25F-3(b)(1)) or has failed to comply with the requirements in § 1.25F-4, including a failure to report qualified contributions in accordance with § 1.25F-4(c). Such an IRS determination is a Federal tax controversy under section 7803(e)(3), which gives the SGO an opportunity to seek review of the determination by the IRS Independent Office of Appeals in the time and manner prescribed in applicable forms, instructions, or other administrative guidance.

(iii) *Removal following State SGO status determination.—(A) In general*. If a State removes an SGO from its State SGO list in accordance with paragraph (d)(7)(iii) of this section, the IRS will remove an SGO from the relevant part of the IRS SGO list.

(B) *Multistate SGO*. If a State removes a multistate SGO from its State SGO list under paragraph (d)(7)(iii) of this section, but the SGO continues to satisfy all applicable requirements for an SGO in a different covered State on whose State SGO list it appears, as well as the applicable requirements as described in paragraph (e)(1) of this section in such other State(s), the SGO will remain on the IRS SGO list with respect to such other covered State(s), subject to any further discretionary examination of the SGO by such other covered States or the IRS.

(9) *Publication of covered States and State SGO lists*—(i) *In general*. The IRS will maintain and publish the IRS SGO list on *https://www.irs.gov*. For those SGOs that have authorized the disclosure of their information on the IRS SGO list, the IRS SGO list will contain each SGO included on a State SGO list for each of the covered States for the calendar year and reflect each removal from a State SGO list and the date of the removal. For donor reliance on the IRS SGO list, *see* § 1.25F-2(b).

(ii) *Addition of organizations with pending tax-exempt status to IRS SGO list*. Upon determining that an organization described in paragraph (d)(5) of this section qualifies for tax-exempt status and that the effective date of such tax-exempt status is on or before January 1 of the calendar year for which the State SGO list applies, the IRS will add the organization to the IRS SGO list for that year if and as soon as the organization authorizes publication of its information to be included on that list.

(e) *State administrative requirements*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, a State must:

(i) Require that organizations meet all generally applicable State requirements for charitable organizations, including any State requirements that any organization must satisfy to be authorized to do business in the State and to solicit charitable contributions in the State; and

(ii) Require SGOs to comply with application, documentation, and financial reporting requirements that are reasonably tailored to:

(A) Support the State's certifications under paragraph (d)(3) of this section; and

(B) Facilitate the prevention and detection of fraud or abuse, including the misuse of scholarship funds, such as through the duplication of scholarship awards to the same student for the same qualified elementary or secondary education expense.

(2) *Prohibition on additional State requirements or discretionary exclusions*. A State may not require SGOs to operate in a manner that is more restrictive than the requirements set forth in section 25F(c)(5) and § 1.25F-3(b) and (c), such as by limiting the type of school that scholarship recipients may attend or the types of qualified elementary or secondary education expenses for which scholarship funds may be used. Accordingly, the State requirements provided in paragraph (e)(1)(ii) of this section must be reasonably related to determining whether an organization is located in the State, meets the requirements of section 25F(c)(5) and § 1.25F-3(b) and the operational requirements in section 25F(d)

and § 1.25F-3(c), and satisfies the generally applicable State requirements for charitable organizations.

(3) *Federal review.* The procedures a State implements in accordance with this paragraph (e) are subject to Federal review. Upon discovering a pattern of irregularities or noncompliance, the IRS, in its discretion, may require a State to modify its procedures to ensure that its determinations regarding an organization's satisfaction of the requirements in section 25F(c)(5) and (d) and § 1.25F-3(b) and (c) are being administered in accordance with the applicable statutory, regulatory, and appropriate State requirements.

(f) *Applicability date*. This section applies to taxable years ending on or after [date of publication of the final regulations in the **Federal Register**].

**Frank J. Bisignano**,
*Chief Executive Officer.*

(Filed by the Office of the Federal Register October 1, 2026, 8:45 a.m., and published in the issue of the Federal Register for October 2, 2026, 91 FR 62655)

# Definition of Terms

*Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:*

*Amplified* describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

*Clarified* is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

*Distinguished* describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

*Modified* is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

*Obsoleted* describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

*Revoked* describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

*Superseded* describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

*Supplemented* is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

*Suspended* is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

# Abbreviations

*The following abbreviations in current use and formerly used will appear in material published in the Bulletin.*

*A*—Individual.
*Acq.*—Acquiescence.
*B*—Individual.
*BE*—Beneficiary.
*BK*—Bank.
*B.T.A.*—Board of Tax Appeals.
*C*—Individual.
*C.B.*—Cumulative Bulletin.
*CFR*—Code of Federal Regulations.
*CI*—City.
*COOP*—Cooperative.
*Ct.D.*—Court Decision.
*CY*—County.
*D*—Decedent.
*DC*—Dummy Corporation.
*DE*—Donee.
*Del. Order*—Delegation Order.
*DISC*—Domestic International Sales Corporation.
*DR*—Donor.
*E*—Estate.
*EE*—Employee.
*E.O.*—Executive Order.
*ER*—Employer.
*ERISA*—Employee Retirement Income Security Act.
*EX*—Executor.
*F*—Fiduciary.
*FC*—Foreign Country.
*FICA*—Federal Insurance Contributions Act.
*FISC*—Foreign International Sales Company.
*FPH*—Foreign Personal Holding Company.
*F.R.*—Federal Register.
*FUTA*—Federal Unemployment Tax Act.
*FX*—Foreign corporation.
*G.C.M.*—Chief Counsel's Memorandum.
*GE*—Grantee.
*GP*—General Partner.
*GR*—Grantor.
*IC*—Insurance Company.
*I.R.B.*—Internal Revenue Bulletin.
*LE*—Lessee.
*LP*—Limited Partner.
*LR*—Lessor.
*M*—Minor.
*Nonacq.*—Nonacquiescence.
*O*—Organization.
*P*—Parent Corporation.
*PHC*—Personal Holding Company.
*PO*—Possession of the U.S.
*PR*—Partner.
*PRS*—Partnership.
*PTE*—Prohibited Transaction Exemption.
*Pub. L.*—Public Law.
*REIT*—Real Estate Investment Trust.
*Rev. Proc.*—Revenue Procedure.
*Rev. Rul.*—Revenue Ruling.
*S*—Subsidiary.
*S.P.R.*—Statement of Procedural Rules.
*Stat.*—Statutes at Large.
*T*—Target Corporation.
*T.C.*—Tax Court.
*T.D.*—Treasury Decision.
*TFE*—Transferee.
*TFR*—Transferor.
*T.I.R.*—Technical Information Release.
*TP*—Taxpayer.
*TR*—Trust.
*TT*—Trustee.
*U.S.C.*—United States Code.
*X*—Corporation.
*Y*—Corporation.
*Z*—Corporation.

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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2026–27 through 2026–52 is in Internal Revenue Bulletin 2025–52, dated December 21, 2025.

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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2026–27 through 2026–52 is in Internal Revenue Bulletin 2025–52, dated December 21, 2025.

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