



SCHOOL TUITION ORGANIZATION CONTRIBUTION CREDITS

SECTION 1. DEFINITIONS.

(a) “Allocate” includes reserving money for an award of a multiyear educational scholarship or tuition grant for a specific student.

(b) “Fiscal year” means the fiscal year of the state.

(c) “Qualified school” means a preschool that offers services to students with disabilities, nongovernmental primary school or secondary school that is located in this state and that does not discriminate on the basis of race, color, disability, familial status or national origin and that requires all teaching staff and personnel that have unsupervised contact with students to be fingerprinted. Qualified school does not include a charter school or programs operated by a charter school.

SECTION 2. CREDIT FOR CONTRIBUTIONS TO SCHOOL TUITION ORGANIZATION.

(a) A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions by the taxpayer or on the taxpayer’s behalf pursuant to Section 3 during the taxable year to a school tuition organization that is certified pursuant to Section 4 at the time of



donation. Except as provided by subsection (c) of this section, the amount of the credit shall not exceed:

(1) Six hundred dollars in any taxable year for a single individual or a head of household;

(2) One thousand two hundred dollars in any taxable year for a married couple filing a joint return.

(b) A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

(c) For each taxable year beginning on or after January 1, the department shall adjust the dollar amounts prescribed by subsection (a), paragraphs (1) and (2) of this section according to the average annual change in the metropolitan [STATE CAPITAL] consumer price index published by the United States bureau of labor statistics, except that the dollar amounts shall not be revised downward below the amounts allowed in the prior taxable year. The revised dollar amounts shall be raised to the nearest whole dollar.

(d) If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

(e) The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the Internal Revenue Code and taken for state tax purposes.

(f) The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer or if the

taxpayer designates a student beneficiary as a condition of the taxpayer's contribution to the school tuition organization. The tax credit is not allowed if the taxpayer, with the intent to benefit the taxpayer's dependent, agrees with one or more other taxpayers to designate each taxpayer's contribution to the school tuition organization for the direct benefit of the other taxpayer's dependent.

(g) For the purposes of this section, a contribution, for which a credit is claimed, that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.

SECTION 3.

(a) At an employee's written request, an employer may agree to reduce the amount withheld under [STATE LAW] by the amount of credit that the employee represents to the employer that the employee will qualify for and be entitled to under Section 2. The employee's request must include the name and address of the qualifying charitable organization, qualified school tuition organization or public school. Within thirty days after agreeing to the employee's request, the employer shall reduce the withholding amount by the amount of the credit, but not below zero, prorated for the number of pay periods remaining in the employee's taxable year after the employee makes the request. If an employer agrees to reduce the withholding amount pursuant to this subsection, the following apply:

(1) Within fifteen days after the end of each calendar quarter, the employer must pay the entire amount of the reduction in withholding tax for that quarter to the designated charitable organization, school tuition organization or public school. These payments are

considered to be on the employee's behalf, and not the employer's, for the purposes of qualifying for the income tax credits under Section 2.

(2) The employee is responsible and accountable for the accuracy and the amount of reduction in withholding tax and the payments to the charitable organization, school tuition organization or public school.

(3) The employer is responsible and accountable to the charitable organization, school tuition organization or public school, to the employee and to the department for actually making the required payments.

(4) Within 30 days after the end of each calendar year, or within fifteen days after the termination of employment, the employer must furnish to each electing employee a statement of the amount withheld and paid on behalf of the employee during that year.

SECTION 4. CERTIFICATION AS A SCHOOL TUITION ORGANIZATION.

(a) A nonprofit organization in this state that is exempt or has applied for exemption from federal taxation under section 501(c)(3) of the internal revenue code may apply to the department of revenue for certification as a school tuition organization, and the department shall certify the school tuition organization if it meets the requirements prescribed by this chapter. An organization must apply for certification on a form prescribed and furnished on request by the department.

(b) The department shall:

- (1) Maintain a public registry of currently certified school tuition organizations;
- (2) Make the registry available to the public on request; and
- (3) Post the registry on the department's official website.

(c) The department shall send notice by certified mail or by e-mail to a school tuition organization if the department determines that the school tuition organization has engaged in any of the following activities:

- (1) Failed or refused to allocate at least ninety percent of annual revenues from contributions made for the purposes of Section 2 for educational scholarships or tuition grants;
- (2) Failed or refused to file the annual reports required by Section 6;
- (3) Limited the availability of scholarships to students of only one school;
- (4) Encouraged, facilitated or knowingly permitted taxpayers to engage in actions prohibited by this article;
- (5) Awarded, restricted or reserved educational scholarships or tuition grants for use by a particular student based solely on the recommendation of the donor;
- (6) Failed or refused to meet any of the requirements in Section 5;
- (7) Failed or refused to include the notice required in Section 5, subsection (c); or
- (8) Failed or refused to comply with the audit or financial review requirements of Section 7.

(d) A school tuition organization that receives notice from the department pursuant to subsection (c) of this section has ninety days to correct the violation identified by the department in the notice. If a school tuition organization fails or refuses to comply after ninety days, the department may remove the organization from the list of certified school tuition organizations and shall make available to the public notice of removal as soon as possible. An organization that is removed from the list of certified school tuition organizations must notify any taxpayer who attempts to make a contribution that the contribution is not eligible for the tax credit and offer to refund all donations received after the date of the notice of termination of certification.

(e) A school tuition organization may request an administrative hearing on the revocation of its certification as provided by [STATE LAW].

SECTION 5. OPERATIONAL REQUIREMENTS FOR SCHOOL TUITION ORGANIZATIONS; NOTICE; QUALIFIED SCHOOLS.

(a) A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under Section 2 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

(b) To be eligible for certification and retain certification, the school tuition organization:

(1) Must allocate at least ninety percent of its annual revenue from contributions made for the purposes of Section 2 for educational scholarships or tuition grants;

(2) Shall not limit the availability of educational scholarships or tuition grants to only students of one school;

(3) May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations;

(4) Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of Section 2, subsection (f);

(5) Shall include on the organization's website, if one exists, the percentage and total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year to:

(A) Students whose family income meets the economic eligibility requirements established under the National School Lunch and Child Nutrition Acts (42 United States Code sections 1751 through 1785) for free or reduced-price lunches.

(B) Students whose family income exceeds the threshold prescribed by subdivision (A) of this paragraph but does not exceed one hundred eighty-five percent of the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced-price lunches; and

(6) Must not award educational scholarships or tuition grants to students who are simultaneously enrolled in a district school or charter school and a qualified school.

(c) A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website, if one exists:

Notice.

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent.

(d) In evaluating applications and awarding, designating or reserving scholarships, a school tuition organization:

(1) Shall not award, designate or reserve a scholarship solely on the recommendation of any person contributing money to the organization, but may consider the recommendation among other factors; and

(2) Shall consider the financial need of applicants.

(e) If an individual educational scholarship or tuition grant exceeds the school's tuition, the amount in excess shall be returned to the school tuition organization that made the award or grant. The school tuition organization may allocate the returned monies as a multiyear award for that student and report the award pursuant to Section 5, subsection (b), paragraph (5) or may allocate the returned monies for educational scholarships or tuition grants for other students.

SECTION 6. ANNUAL REPORT.

(a) On or before September 30 of each year, each school tuition organization shall report electronically to the department, in a form prescribed by the department, the following information, separately compiled and identified for the purposes of Section 2:

- (1) The name, address and contact person of the school tuition organization;
- (2) The total number of contributions received during the previous fiscal year;
- (3) The total dollar amount of contributions received during the previous fiscal year;
- (4) The total number of children awarded educational scholarships or tuition grants during the previous fiscal year;
- (5) The total dollar amount of:
 - (A) Educational scholarships and tuition grants distributed during the previous fiscal year; and
 - (B) Money being held for identified students' scholarships and tuition grants in future years;
- (6) The cost of audits pursuant to Section 7 paid during the fiscal year;
- (7) The total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year to:

(A) Students whose family income meets the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches; and

(B) Students whose family income exceeds the threshold prescribed by subdivision (a) of this paragraph but does not exceed one hundred eighty-five per cent of the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches;

(8) For each school to which educational scholarships or tuition grants were awarded:

(A) The name and address of the school;

(B) The number of educational scholarships and tuition grants awarded during the previous fiscal year; and

(C) The total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year; and

(9) The names, job titles and annual salaries of the three employees who receive the highest annual salaries from the school tuition organization.

SECTION 7. AUDITS AND FINANCIAL REVIEWS.

(a) On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with Section 5, subsection (b), paragraph (1). The audit must be conducted by an independent certified public accountant who is licensed in this state or who has a limited reciprocity privilege

pursuant to [STATE LAW]. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

(b) On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant who is licensed in this state or who has a limited reciprocity privilege pursuant to [STATE LAW]. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

(c) Within five days after receiving the audit or financial review the school tuition organization shall file a signed copy of the audit or financial review with the department.

(d) The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.