



December 30, 2025

Edward Waters
Office of the Associate Chief Counsel (Income Tax & Accounting)
Internal Revenue Service
CC:PA:01:PR (Notice 2025-70)
Washington, DC 20044

Subject: Request for Comments on Individual Tax Credit for Qualified Contributions to Scholarship Granting Organizations (Notice 2025-70)

Dear Mr. Waters,

The Jewish Federations of North America ("Jewish Federations") is pleased to submit comments to the U.S. Department of the Treasury ("Treasury") and the Internal Revenue Service ("IRS") with respect to Notice 2025-70, "Requests for Comments on Individual Tax Credit for Qualified Contributions to Scholarship Granting Organizations."

We thank you for your prompt consideration in addressing several issues raised by the new Internal Revenue Code ("IRC") Section 25F, 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").

Jewish Primary Education: A Cornerstone of Communal Life

Jewish Federations represents a philanthropic network of 141 local Jewish Federations and over 300 independent Jewish communities. Our mission is to unite and strengthen Jewish communities across North America and to help shape a vibrant, resilient future for all. As a network, local Federations provide substantial charitable support to Jewish Day Schools and other means of educating the community.

From generation to generation, Jewish education has been a foundation of Jewish life. Jewish primary schools and day schools transmit our values, sustain our traditions, and ensure that our children grow up deeply connected to the Jewish people and their community. Yet the cost of Jewish education has become one of the greatest barriers to full participation in Jewish life. Even for upper middle-class professional families, tuition is daunting, if not unreachable, averaging \$35,000 per student and ranging in major

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population centers from \$40,000 to \$80,000.¹ Barely half of families pay full tuition with the remainder reliant on financial assistance. Jewish Federations has long recognized this challenge as a philanthropic priority with the network dedicating \$73.3 million—18 percent of allocable annual fundraising campaign resources—to supporting day schools in 2022.²

At a time of renewed energy in Jewish engagement, in part in response to a coinciding rise in antisemitism in public K-12 schools, the importance of preserving access to a range of educational options, including public schools, charter schools, and faith-based schools, cannot be overstated. For Jewish families, the availability of day school education is one component of a broader educational ecosystem. The creation of a new federal tax credit scholarship provision contained in OBBBA presents a unique opportunity for faith based and community-based schools to expand access and affordability for families who chose them.

It is important to note that Jewish Federations and the families we serve are deeply invested in the strength of public education. Jewish communities across the country are longstanding supporters of their local public-school systems. The scholarship tax credit contemplated by Section 25F does not reduce public-school funding or redirect public resources; rather, it encourages private charitable contributions, allowing families to support the educational setting that best meets their children’s needs while continuing to value and rely upon strong public schools.

Recommendations Related to Section 2. Background

Calculating the Amount of Scholarship Tax Credit (Section 2.02)

Before addressing a number of issues for which Notice 2025-70 requests specific comments, we wish to provide a recommendation regarding the interpretation of “Section 2.02 Amount of 25F Credit.”

Section 25F (a) provides that:

[I]n the case of an individual who is a citizen or resident of the United States, there is allowed as a credit an amount equal to the aggregate amount of qualified contributions made by the taxpayer during the tax year.

¹ Jewish Federations of North America, UnitEd, Ministry for Diaspora Affairs and Combatting Antisemitism, & Prizmah: Center for Jewish Day Schools (2024). *Investing in Jewish Day Schools: Case Statement*. P. 7

² *Id.*



Section 25F (b)(1) provides that the amount the credit allowed to any taxpayer for any tax year may not exceed \$1,700.

Recommendation: We urge that the Treasury and the IRS clarify that each individual who files a tax return and makes a qualified contribution during the tax year should be able to claim a credit under Section 25F of up to \$1,700 and up to \$3,400 for a married couple filing jointly.

There is ample precedent for the Treasury and the IRS to adopt this recommendation. For example, the regulations defining the qualifications for filing a joint tax return can be found in Treasury Regulation sections 1.6013 et seq. Section 1.6013-4(b) provides that “(A)lthough there are two taxpayers on a joint return, there is only one taxable income.” Indeed, other provisions in the Internal Revenue Code explicitly refer to a husband and wife filing a joint return as one individual where appropriate. See Code Section 165 (h)(4)B), which states that “for purposes of this subsection, a husband and wife making a joint return for the taxable year shall be treated as 1 individual.”

Section 25F(b)(2) provides that the amount allowed as a credit is reduced by the amount allowed as a credit on any State tax return for qualified contributions made during the year.

Recommendation: We urge Treasury and the IRS to clarify that an individual or taxpayer can participate in both the federal scholarship tax credit and a state tax credit program if the individual/taxpayer makes two separate qualified contributions.

As part of the proposed regulations interpreting Section 25F, Treasury and the IRS should make it clear that the federal scholarship tax credit program works separately from any state scholarship program. As long as the individual/taxpayer has made a separate “qualified contribution,” as defined by Section 25F, such contribution should not be reduced if the individual/taxpayer makes another contribution that could qualify for a state scholarship program credit or deduction.³

³ Section 25F(c)(3) Qualified contribution. The term “qualified contribution” means a charitable contribution of cash to a scholarship granting organization that uses the contribution to fund scholarships for eligible students solely within the State in which the organization is listed pursuant to subsection (g).



Defining Qualified SGO Expenses (Section 2.03)

Section 25F(d) lists the requirements to qualify as an SGO. Section 25F(c)(4) defines the term “qualified elementary or secondary education expense” to mean any expense of an eligible student, which is described in Section 530(b)(3)(A).

Recommendation: Treasury and the IRS should reference the definition of “qualified elementary and secondary education expenses” as contained in Section 530(b)(3)(A).

The term “qualified elementary and secondary education expenses” means:

- (i) expenses for tuition, fees, academic tutoring, special needs services in the case of a special needs beneficiary, books, supplies, and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary [school](#) student at a public, private, or religious [school](#);
- (ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious [school](#) in connection with such enrollment or attendance; and
- (iii) expenses for the purchase of any [computer technology or equipment](#) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary’s family during any of the years the beneficiary is in [school](#). Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

Treasury and the IRS should include language in the proposed regulations ensuring that qualified expenses, as defined in Section 25F(c)(4), can include costs to cover services such as, but not limited to, speech/occupational/physical therapies, aids, assistive technology, and other specialized support needed due to a physical, mental, or emotional condition.

Jewish students with disabilities deserve the same access to inclusive, high-quality Jewish education as their peers. Innovative programs such as those created and implemented by groups, such as Matan and Gateways: Access to Jewish Education, have assisted Jewish educational organizations to adapt their curricular materials to meet the needs of all learners. At the same time, the costs of supporting students with disabilities outside of public schools, which receive Individuals with Disabilities in Education Act (IDEA) funding, means far too many parents must withdraw students with disabilities due to the high cost of these services. Clarifying this language will ensure that



Jewish education can live up to the goals of providing high quality education to all those who seek it.

Section 3. Request for comments on state lists and certifications

State election and list (Section 3.02)

Section 25F(g) provides that a state that voluntarily elects to participate under Section 25F must provide the Secretary with a list of the SGOs that meet the requirements described in Section 25F(c)(5) and are located in the state.

The Notice acknowledges that potential SGOs may need sufficient time to prepare for the commencement of the credit in 2027 and assurance that the state in which they are located will elect to participate under Section 25F. Accordingly, Treasury and the IRS intend to issue future guidance providing states with the option to submit, beginning in early 2026, the state election for 2027 procedure.

Recommendation: We applaud the Treasury and IRS plan to provide guidance on state election under Section 25F, as outlined in Sections 25F(g)(1) and (2), as quickly as possible. This will give more time to states and potential SGOs to prepare for the implementation of the new credit, which shall apply to tax years ending after December 31, 2026.

We further urge that the anticipated future published guidance regarding the election to participate be made as simple as possible so that both the state and proposed SGOs do not face any artificial compliance barriers. A simple electronic form should indicate the choice to participate. An appendix could be included to provide the list of all organizations located in the state that request to be designated as an SGO and meet the statutory requirements of Section 25F(c)(5).

The Notice states that forthcoming proposed regulations would provide that, consistent with Section 25F(g)(1)(A), the state list must include all organizations in the state that have requested to be designated as an SGO and that meet the statutory requirements of Section 25F(c)(5). It notes further that the proposed regulations would not prohibit an SGO from imposing additional governing provisions beyond those of Section 25F(c)(5), unless such provision conflicts with the ability of the SGO to satisfy such requirements.

Recommendation: We believe that an individual SGO should be able to impose certain restrictions on their operation, such as limiting the types of qualified schools or students who will receive



scholarship grants. We believe, however, that SGOs that impose specific eligibility criteria should only be permitted to impose those that are objective, non-discriminatory, and comply with all applicable state and federal laws.

We believe that Sec. 25F empowers SGOs with discretion over which qualified expenses to fund, how to distribute scholarships, and what amounts to offer.

This flexibility operates entirely within the framework of voluntary private contributions and does not alter state or local funding formulas for public education, which remain the primary educational pathway for most students, including Jewish students. It will permit qualified SGOs to target specific student needs, including students with learning disabilities, those from low-income households, and those who prefer a religious component to education.

We further recommend that proposed regulations should not permit states from adding additional requirements to the statutory list of Section 25F(c)(5), which could discriminate against otherwise compliant SGOs, and therefore exclude them from their state lists. The basic principle embodied in the proposed regulations should ensure that states electing to participate in Section 25F must allow scholarships for education services across all school sectors, with no limit on which qualified SGOs can participate. States should not be allowed to selectively recognize or exclude qualified organizations based on political considerations or other preferences.

Contents of State certification (Section 3.03)

The Notice states that SGOs may be structured and/or operated in different ways, including operating entirely within a single state or in a region consisting of multiple states. The Notice also lists a number of information requirements for so-called “multistate organizations.” See Section 3.03(5) which includes a requirement that the donor designates the state on whose state list the organization is named in which their qualified contribution is to be used. See specifically Section 3.03(5)(b).

Recommendation: We applaud Treasury and the IRS for recognizing that in many parts of the country, including metropolitan areas as well as in areas close to the state lines, elementary and secondary schools can serve students from more than one jurisdiction. Further, such schools often conduct a



variety of programs and activities that cross state lines. We urge that all provisions implementing the Section 25F credit which apply to such schools attempt to minimize any duplicative or unnecessary recordkeeping burdens. We agree with the recommendation that the donor be required to designate the state in which their contribution is to be used.

Requests for comments on state policies and procedures (Section 3.04)

The Notice requests comments regarding what types of uniform policies, procedures, recordkeeping, or other requirements would permit a state to reliably verify that SGOs meet the requirements in Section 25F(c)(5) and asks how states which state-level programs meet this requirement.

Recommendation: We note that many states have long-established state tax credit scholarship programs. Eighteen states have established tax-credit scholarship programs. Two states have multiple tax-credit scholarship programs: Arizona has four programs and Pennsylvania has two programs.

When drafting specific recordkeeping and reporting requirements to assure that SGOs within a state meet the statutory requirements of Section 25F(c)(5), we urge Treasury and the IRS to keep two principles in mind:

- (1) balance the IRS need for information for administrative purposes with the burden imposed on reporting organizations (see the discussion below regarding Section 4.05 Request for comments on reporting and recordkeeping requirements); and
- (2) utilize (and not duplicate) existing state tax credit scholarship reporting requirements whenever appropriate.

For example, the Educational Improvement Tax Credit Program administered by the Pennsylvania Department of Community & Economic Development has detailed [guidelines](#) to establish the process whereby a scholarship organization or an educational improvement organization may be included on the list of qualified SGOs as well as detailed information regarding the initial application, renewal application, a scholarship organization monitoring report, an educational improvement organization monitoring report, and a sample contribution receipt. We urge Treasury and the IRS to consider similar simplified reporting requirements.



Requests for comments on “located in the state.” (Section 3.05)

Section 25F(g)(1)(A) requires a state to list qualified SGOs that are located in the state.

Recommendation: Because the proposed regulations intend that SGOs can either be structured and operated either in one state or in a region constituting of multiple states, it makes sense for Treasury and the IRS to provide the broadest meaning of “located” to include not only the state of incorporation but any state in which the SGO “regularly carried on business” or through “economic nexus”. Following the 2018 Supreme Court decision in *South Dakota v. Wayfair, Inc.*, states can now establish nexus based solely on a business's economic activity within the state, even without a physical presence. This is often referred to as “regularly carrying on business” via a certain threshold of activity. SGO activities, including granting scholarship funds as well as implementing procedures to assure it meets the statutory requirements of Section 25F, including any recordkeeping and reporting requirements, should be sufficient to establish such nexus for an SGO in a state.

Section 4. Requests for Comments Regarding SGO Requirements

Requests for comments regarding income (Section 4.01)

Section 25F(d)(1)(B) requires that an SGO spend “not less than 90 percent of the income of the organization on scholarships for eligible students.” The Notice questions whether the proposed regulations should address potential fluctuations in income and expenses, such as potential start-up costs in the first year of operations or the smoothing of the calculation over a certain number of years.

Recommendation: We applaud Treasury and the IRS for recognizing that certain new (or established) SGOs may have difficulty meeting the 90 percent income/scholarship requirement of Section 25F(d)(1)(B).

We recommend that Treasury and IRS consider some sort of three-year averaging computation similar to the computation employed in the “public support test” of Code Section 509(a)(1). Under such a computation, an SGO would be given a two-year grace period in which it is presumed to qualify as an SGO meeting the income/scholarship requirement. By the third year, the SGO must meet the 90 percent income/scholarship test with actual data based on the prior two years of activity.



Requests for comments on multistate organizations (Section 4.02)

The Notice asks whether the requirements for multistate SGOs regarding scholarships (10 or more students who do not all attend the same school) and the 90 percent income/scholarship provision be applied either in the aggregate or on a state-by-state basis.

Recommendation: We would ask that Treasury and IRS provide the most flexibility possible for multistate SGOs and permit them to satisfy both the scholarship and income tests on an aggregate rather than on a state-by-state basis. Additionally, the other requirements imposed by Section 25F(d) regarding limitation on other expenses, including priority awards, prohibition against earmarks for particular students and verification of household income and family size should be satisfied with respect to all states on whose state list the SGO appears.

Request for comments on reporting and recordkeeping requirements (Section 4.05).

Section 25F(h) permits Treasury and the IRS to issue regulations regarding the requirements that SGOs must meet and report certain information to the IRS. Section 4.05(2)(a) and (b) of the Notice asks if it is possible to balance such recordkeeping and reporting requirements so as to not impose a burden on the reporting organizations. It also notes that there may be current reporting by similar organizations of such information to the states. This is especially the case because certain charitable organizations that may seek to satisfy the requirements to be an SGO are currently affiliated with certain religious denominations. As such, these organizations are automatically qualified as tax-exempt organizations under Code Section 501(c)(3) and are not required to file annual returns with the IRS. As noted on the [IRS website](#), a “school below college level affiliated with a church or operated by a religious order” is exempt from filing an annual information return Form 990.

Recommendation: As noted above, we recommend that the principle of balancing the IRS need for information for administrative purposes be balanced with any new burden imposed on SGOs, especially those affiliated with a particular religious denomination. Alternatively, we would recommend that the proposed regulations incorporate any existing recordkeeping and reporting requirements imposed at the state level. We would again point to [guidelines](#) of the Educational Improvement Tax Credit Program administered by the Pennsylvania Department of Community & Economic Development as a prime example of existing reporting requirements at the state level, which could be incorporated by reference into the proposed



regulations without imposing any additional reporting burden on qualified SGOs.

Section 4.05 (3) contains the definition of an “eligible student” under Section 25F(c)(2)(A)(a member of a household with income not greater than 300 percent of the area median gross income) and asks who an SGO should verify this information.

Recommendation: We again believe that SGOs should be permitted to employ any reasonable method to obtain verification of such information from scholarship applicants/grantees. For example, the Notice references requiring the provision of the most recent Form 1040. While this could be an acceptable method, alternative means should be authorized. For example, many schools currently rely on third-party providers, such as FACTS, which offer technology and expertise in administering ongoing scholarship programs. SGOs and others should be allowed to utilize such third-party providers to verify the income eligibility of potential Section 25F scholarship recipients.

Section 4.05(4) and (5) request comments regarding the cash donation from the donor and whether the SGO should be required to provide information in order for the donor to claim the Section 25F credit.

Recommendation: We again urge that Treasury and the IRS consider making the contribution and acknowledgement of the Section 25F credit as simple as possible and urge that the government utilize procedures currently in place for any other significant charitable contribution. Similar to other charitable contributions, the cash gift must be made to a qualified SGO as listed in that state’s election form. It is the donor's responsibility to obtain and maintain the required records to substantiate the credit contribution. Because the credit amount can be in excess of \$250, the donor must obtain a contemporaneous written acknowledgment (CWA) from the SGO. We recommend that Treasury and the IRS include a sample CWA in the proposed regulations that SGOs can follow and would point toward the [sample contribution receipt](#) found in the Educational Improvement Tax Credit Program administered by the Pennsylvania Department of Community & Economic Development.

Conclusion

Thank you for the opportunity to submit these comments and for your thoughtful consideration of the issues raised in Notice 2025-70. We



appreciate Treasury's and the IRS's engagement in these important matters and would welcome the opportunity to provide additional information or clarification. If you have any questions, please contact David Goldfarb, Managing Director, Public Policy and Strategic Health, at the Jewish Federations of North America at [David.Goldfarb@JewishFederations.org/303-601-4023].

Sincerely,

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