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Education Freedom Tax Credit

What States and Scholarship Granting Organizations (SGOs) need to know about the new Treasury/IRS rules

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What Treasury released

On October 1, 2026, Treasury released proposed and temporary regulations for the credit.

Temporary regs.

In effect December 1, 2026

- Cover SGO registration, donor reporting, and State elections and lists
- Apply from Sept. 1, 2026; expire Oct. 1, 2029

What this means: Binding now. SGOs need to register and set up donor numbers, and States need their election process in place.

Proposed rules

The framework for 2027

- Can be relied on for 2027 contributions if followed in their entirety and consistently
- Comments due about Dec. 1, 2026; hearing Dec. 15

What this means: Build to these for 2027 but expect some change to occur.

PENDING: Final rules

Date not set

- Will apply to taxable years ending on or after the day they are published
- No publication date has been set

What this means: Keep your systems flexible so you can adjust when final rules arrive.

Key takeaways

The regulations move Section 25F from statute toward actual implementation.

States

What states have

- Clearer requirements and timelines for States to participate
- Clearer timelines to submit SGO lists

SGOs

What SGOs have

- More detail on structure and scholarship spending, reporting, donor administration, and compliance

Open questions

What needs clarification

- School definitions and expenses
- Further section 530 guidance including supplemental services

WHAT THE RULES SAY TEMPORARY

States opt in annually

The Governor (or the official designated under State law) decides each year whether the State participates

1 Register once

in the IRS State section 25F portal

2 Tell the IRS

it wants to participate, each year by January 1

3 Submit a list

of qualifying SGOs by February 15 (year 1)

If a State does not submit a list annually, **it is not participating that year, and none of its organizations qualify for the credit.**

TEMPORARY

States: a clear 2027 calendar

January 1, 2027

Advance election due

Submit Form 15714 – *Advanced Election to Participate Under 25F*

February 15, 2027

Finalize the election

Submit the State SGO list with required information and certifications

Every year after

Annual cycle

Advance election (Jan. 2 to Sept. 30); SGO list is due by 11:59 p.m. Jan. 1 (not before Oct. 1)

An election alone does not finish the job

If a state does not finalize its election with its SGO list, no organization in that state qualifies as an SGO for that year. The election covers one calendar year and cannot be revoked once complete.

Certifying an SGO: what the state checks

Located in the State — TEMPORARY
Authorized to do business and in compliance with generally applicable state charity law

501(c)(3) public charity — TEMPORARY
Described in 501(c)(3), exempt under 501(a), and not a private foundation

Segregated Section 25F account — TEMP + PROPOSED
Only qualified contributions, with full books and records; multistate SGOs need one per state

Operational requirements — TEMP + PROPOSED
Statute 25F(d) now; proposed 1.25F-3(c) adds detail: 10+ students, 90% spending, no earmarking

Single-State or multistate — TEMP + PROPOSED
State determines which, then reviews the annual audit and IRS certifications (proposed rules)

Reporting failures — TEMPORARY
Investigate any failure and be reasonably satisfied it is corrected or prevented

Three review tracks

Established SGO
Review the audit report and the annual certifications filed with the IRS.

New SGO, no history
Rely on governing documents and policies that expressly require 25F(d) compliance; a generic "comply with law" clause is not enough. Get copies of later IRS filings.

Pending 501(c)(3)
List only if applied to all similar applicants. Certify retroactive status to Jan. 1 or earlier and label the SGO as pending.

State action plan: what to do now

1. **Settle authority**
   The Governor or state-law designee makes the election; up to two portal officials; a special-purpose EIN from the IRS.

2. **Write the procedures**
   Certify the state's own determination process, prompt removal with IRS notice, a matching public list, and due process.

3. **Open intake**
   Objective criteria, an application, and an early cutoff. Include every qualifying applicant; add no limits on school types or expenses.

4. **Review and certify**
   Apply the checklist to each applicant, use the new-SGO and pending-501(c)(3) pathways, and keep a record of each decision.

5. **Submit and maintain**
   Advance election by Jan. 1 and list by Feb. 15. No additions afterward; remove SGOs only with due process and prompt IRS notice.

Watch for

- IRS portal instructions and Form 15714 details; several certifications follow future guidance
- Possible alternative first-year procedures if portals are not ready
- Comments due Dec. 1: Treasury asks if any state certification is disproportionately burdensome
- Final rules on the proposed operational requirements

The election is annual and cannot be revoked once complete.

PROPOSED

SGOs: the 85% activity test

Is at least 85 percent of the organization's activity scholarship granting?

YES

Safe harbor (single-State SGO)

- Apply the operational requirements to the Section 25F account only, including qualified contributions and earnings in the account
- Money outside the §25F account is not subject to the 90 percent base, meaning additional funds can be used to support overhead

NO

Whole-organization test

- The 90 percent base is total gross receipts from all sources, unreduced by expenses
- A mixed-mission nonprofit with more than 15 percent other activity loses the safe harbor

Multistate SGOs: must have 85 percent of activity on scholarship granting and keep a separate Section 25F account for each state it works in.

What counts toward 85%

Counts as scholarship granting

- Any scholarship granting, whether under section 25F, a State tax-credit program, or otherwise
- Administration, fundraising, governance, investment, compliance, and outreach that support it

85% = What the organization does — measures how much of the SGO's activities are related to scholarship granting

90% = Where the money goes — measures how much of the applicable income is spent on scholarships

Why it matters

Without the 85% test, a single-State SGO would have to spend 90% of everything it takes in on scholarships.

The 85% is a required provision for multistate SGOs.

PROPOSED

Operating Requirements

10+ students

Scholarships to at least 10 students who do not all attend the same school

90% spending

Through the end of the taxable year after income is received; counted when paid

300% of AMI

Household income cap, verified by documents or categorical eligibility (SNAP, TANF, WIC, Section 8, SSI)

State residents

Students must reside in the state the SGO is listed in; school location is not enough

Priority

Prior-year recipients first, then their siblings; a written policy by scholarship type

No earmarking

Donors cannot direct gifts to a particular student

Disqualified persons

Substantial contributors (over $5,000 and over 2%), officers, directors, trustees, anyone participating in the selection of scholarships, or family members

SGO Administrative Requirements

TEMPORARY

1 Register

IRS SGO portal, ideally before appearing on any State list

TEMPORARY

2 Donor number

Create a unique donor number in the IRS uniform format

TEMPORARY

3 Acknowledge

Written acknowledgment with EIN, amount, and donor number by Jan. 31

TEMPORARY

4 Report to IRS

Name, address, donor number, and total donations by Feb. 28 via the portal

PROPOSED

5 Audit

Annual independent financial and programmatic audit (receipts over $500,000) or smaller SGOs can use an independent committee.

PROPOSED

6 Annual Certification

Provide an annual certification to the IRS

Donors: what the credit requires

$1,700
credit cap per taxpayer

$3,400
for spouses filing jointly, if each makes qualifying contributions

5 years
of carryforward for unused credit

TEMPORARY

Cash only

U.S. dollars by check, card, electronic transfer, after-tax payroll deduction or similar method; digital assets do not count

TEMPORARY

Designation

The donor must designate the payment as a qualified contribution at the time of making the contribution; the designation cannot be reversed

PROPOSED

Give anywhere

Donors may contribute to any SGO regardless of residence and generally may rely on the IRS SGO list at the time of the gift

PROPOSED

State credits come first

A state credit reduces the federal credit before the cap; donors are not capped at giving $1,700

Making compliance work together

State → IRS

- Advance election and finalize SGO list
- State gives IRS certified policies

SGO → IRS

- Portal registration, preferably before the organization appears on state list.
- Donor report by Feb. 28 of the following year
- Annual certification (proposed)

SGO → State

- Annual certification (proposed)
- Annual audit report (proposed)
- Audit reports for each covered state (proposed)

SGO → Donor

- Donors designate the contribution is a qualified 25F contribution
- Acknowledgment to donors by Jan. 31
- Unique donor number for each donor

The next step will be translating the regulatory requirements into systems that are understandable for donors and families and manageable for SGOs.

PROPOSED

Open question: measuring the 85% test

Treasury has asked how scholarship-granting activity should be measured

- **Receipts**
- **Expenditures**
- **Staff time**
- **Program-service activity**

...or another administrable metric. Treasury also asks whether 85 percent is the right threshold.

Why it matters

The metric could decide which organizations qualify for the safe harbor and how existing nonprofits structure their operations.

What to do now

Keep records that would support any of these measures, and decide whether to comment. Avoid hard-coding a method Treasury left open.

PROPOSED

Open question: qualified schools and expenses

Student eligibility

- Household income at or below 300% of area median
- Eligible to enroll in public school
- Resident of the covered state
- **Special residency exceptions:** Students on tribal lands and students with parents serving in the military

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Expense eligibility

- Section 530 expenses tied to school enrollment or attendance
- "School" is determined under state law
- Additional Section 530 guidance is forthcoming

Controls to build now

- School charges (tuition, fees, room and board) are paid directly to the school; other vendors may be paid directly if they meet requirements
- Qualified digital wallets are permitted

How YESF can support states

Governors and state teams

From reading the rules to running a process

- Interpret the federal requirements and identify the key decisions and deadlines states will face
- Implementation guidance and checklists that become concrete state action items
- Technical assistance as states build processes to identify and submit qualifying SGOs
- Peer working sessions with other participating states and national experts
- Continued updates as Treasury and the IRS issue guidance or finalize regulations

How YESF can support SGO leaders

- Practical guidance translating the federal rules into operational requirements
- Support on structure, the 85 percent test, separate Section 25F accounts, and the 90 percent spending requirement
- Guidance on donor processing, reporting, compliance, and scholarship administration
- Training and peer learning for organizations preparing to operate under Section 25F
- Continued analysis and updates as additional federal guidance is released

Existing and prospective SGO leaders

You do not have to figure this out alone

NEXT STEPS

What to do next

For states

1. Confirm your state's participation status and understand the federal deadlines
2. Establish who owns implementation within the administration
3. Begin identifying the process for qualifying and submitting SGOs

For SGOs

1. Determine whether your organization can satisfy the structural and activity requirements
2. Map the systems that you need for contributions, scholarships, accounting, reporting, and compliance
3. Identify questions that may warrant comments to Treasury and the IRS

AUDIENCE Q&A

Questions

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Resources

After the call, we will send you:

- EFTC Resource Page
- Executive Summary
- Statute-to-Rule Crosswalk for States and SGOs

Sources: Proposed regulations (REG-117199-25) | Temporary regulations (TD 10057)

For implementation planning only; not legal or tax advice.