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ANALYSIS: ILLINOIS' NEW TAX CREDIT SCHOLARSHIP PROGRAM

What is a Tax Credit Scholarship Program?

It allows taxpayers – individuals, corporations, partnerships or trusts – to donate to scholarship granting organizations (SGO) and receive a credit on their state taxes in return. The SGO will then use the donated money to grant scholarships to qualifying students to attend a qualifying nonpublic school.

TAX CREDIT

How much is the state tax credit worth?

Any donating taxpayer will receive a 75% credit. This means that if a donor donates \$10,000, they will receive a state tax credit of \$7,500.

- Donations by a single taxpayer are capped at \$1 million.
- Individuals can direct their donations to a school or subset of schools of their choice but not to particular students. Other taxpayers cannot designate their donations to schools or students.
- The credit is non-refundable (meaning it cannot take a taxpayer's liability below zero), but it can be carried forward for five years.

Can a donor receive a federal tax deduction in addition to a state tax credit for the same donation?

No. The legislation specifically prohibits this.

Is there program cap? If so, what is it?

Yes, there is a cap. It is \$75 million per year.

- The cap sets the amount of tax credits that can be handed out; it does not cap the amount of scholarships that can be distributed under the program.
- In order for the \$75 million cap to be hit, \$100 million will have to be donated.

How does that donation process work?

Beginning on January 1, 2018, individual and corporate donors will be able to apply for tax credits on a Department of Revenue website. The Department will issue rules to define the application process.

- If approved, the donor will be given a contribution authorization certificate.
- The Department shall issue contribution authorization certificates on a first-come, first-served basis based upon the date of the taxpayer's application for the certificate.
- The donor will then have 60 days to donate the amount they reserved to the SGO of their choice.
- After donating, the donor will receive, within 30 days, a certificate of receipt from the SGO, indicating that a donation was made.
- Within 10 days of issuing a certificate of receipt, the SGO will then notify the Department of Revenue that the donation was made.

If a donor doesn't donate, rescinds their donation, or gives less than they indicated to the Department of Revenue, they will not receive ANY tax credit. All unused tax credits will be put back into the program until the cap is hit.

SCHOLARSHIPS

What is the maximum amount of scholarship a student can receive?

The maximum scholarship amount is either (1) tuition and necessary fees of the school to be attended or (2) the statewide average operating expense per student, whichever is lower. Tuition and necessary fees includes the customary charge for instruction in general and the additional fixed fees charged for specified purposes that are required generally of non-scholarship recipients for each academic period for which the scholarship applicant actually enrolls, including costs associated with student assessments.

- The Illinois State Board of Education is granted rule-making authority to further define the computation of necessary costs and fees.

For the current year, the statewide average operating expense per student is \$12,280. There are also scholarship multipliers for certain students:

- students identified as gifted and talented can receive a maximum scholarship amount of \$13,508. (x 1.1);
- students identified as English Language Learners can receive a maximum scholarship amount of \$14,736. (x 1.2); and
- students identified as eligible to receive services under the federal Individuals with Disabilities Education Act can receive a maximum scholarship amount of \$24,560 (x 1.2).

How is the scholarship amount a student receives determined?

In order to qualify for a scholarship, a student's family will have to give official documentation to the SGO of their annual income. Based on how a student's household income compares to the federal poverty level, a student will receive the following:

- for students whose household income is less than 185%, the scholarship will be 100% of tuition and necessary fees;
- for students whose household income is between 185% and 250%, scholarships will average 75% of tuition and necessary fees; and
- for students whose household income is above 250%, scholarships will average 50% of tuition and necessary fees.

SCHOLARSHIP GRANTING ORGANIZATION

What is an SGO?

An SGO is a 501c3 non-profit organization whose primary aim is to give scholarships to students.

What are SGO regulations?

An SGO must be approved by the Department of Revenue before donors can receive a tax credit for donating to it. There will be rules promulgated explaining the process for approval. The process will include certification that the SGO:

- is a 501c3 and will provide scholarships to eligible students;
- will use at least 95% of donations during a taxable year for scholarships;
- will deposit and hold qualified contributions and any income derived from qualified contributions in an account that is separate from the organization's operating fund or other funds until such qualified contributions or income are withdrawn for use;
- may transfer funds to another SGO, only with prior approval of the Department, if additional funds are required to meet scholarship demands at the receiving SGO;
 - all transferred funds must be deposited by the receiving SGO into its scholarship accounts and must be separately disclosed to the Department;
- will provide a copy of the most recent financial audit of the SGO's accounts and records conducted by an independent certified public accountant;
- will not be operated by an individual who has filed for individual or corporate bankruptcy in the last 7 years;
- will not be operated by an individual who owns or operates a school that participates in the program or who has a family member – parent, child or sibling - who is a paid staff or board member of a school that participates in the program;
- will abide by federal anti-discrimination provisions; and,
- must provide a list of the names and addresses of all members of its governing board.

SGO applicants shall be notified of the Department of Revenue's determination within 30 business days after the application is received.

An approved SGO that receives qualified contributions shall report to the Department, on a form prescribed by the Department, by January 31 of each calendar year. The report shall include:

- the total number of certificates of receipt issued during the immediately preceding calendar year;
- the total dollar amount of qualified contributions received, as set forth in the certificates of receipt issued during the immediately preceding calendar year;
- the total number of eligible students utilizing scholarships for the immediately preceding calendar year and the school year in progress and the total dollar value of the scholarships;
- the name and address of each qualified school for which scholarships were issued during the immediately preceding calendar year, detailing the number, grade, race, gender, income level, and residency by Zip Code of scholarship students and the total dollar value of scholarships being utilized at each qualified school by priority group, as identified in subsection (d) of Section 40 of this Act; and
- additional information requested by the Department.

Finally, SGOs will annually apply for recertification with the Department of Revenue. The recertification process will include a requirement that within 180 days after the end of its fiscal year, each SGO will provide a copy of a financial audit of its accounts conducted by an independent certified public accountant and evidence that it has used 95% of contributions for scholarships. Rules will be promulgated on this process and on appeals of revocation of certification.

What are SGO responsibilities?

In addition to conforming to the regulations above, SGOs must:

- assess and document the applying student's eligibility for the academic year;
- allow an eligible student to attend any qualified school of the student's choosing, subject to the availability of funds (This language ensures the ability of SGO to accept designated funds from individual donors and ensure they are used at school(s) intended.);
- begin granting scholarships no later than February 1 preceding the school year for which the scholarship is sought;
- within 10 business days, approve or deny applications for scholarships from students meeting the qualifications of one or more priority groups received before April 1;
- distribute scholarship payments to the participating schools where the students are enrolled;
- for the 2018-2019 school year through the 2021-2022 school year, expend no less than 75% of the qualified contributions received during the calendar year in which the

qualified contributions were received. No more than 25% of the qualified contributions may be carried forward to the following calendar year;

- for the 2022-2023 school year, expend all qualified contributions received during the calendar year in which the qualified contributions were received. No qualified contributions may be carried forward to the following calendar year;
- allow an eligible student to transfer a scholarship during a school year to any other participating school of the custodian's choice (such scholarships shall be prorated); and
- make reasonable efforts to advertise the availability of scholarships to eligible students.

SGOs may also be responsible for the costs associated with the independent research organization's study of scholarship students on a per-pupil served basis.

SCHOOLS

How do nonpublic schools qualify to participate in the program?

The school must be located in Illinois and have completed the State Board of Education's recognition process.

What are the responsibilities of participating schools?

A qualified school that accepts scholarship students must do all of the following:

- provide to an SGO, upon request, all documentation required for the student's participation, including the non-public school's cost and student's fee schedules;
- be academically accountable to the custodian and student by:
 - annually providing to the custodian a written explanation of the student's progress (report card);
 - beginning in the 2019-20 school year, annually administering assessments to scholarship students in the same manner in which they are administered at public schools;
 - the Board shall bill participating schools for all costs associated with administering assessments;
 - the participating schools shall ensure that all test security and assessment administration procedures are followed; and
- report individual student scores to the custodians of the students and the independent research organization studying the program.

Will all scholarships go to Chicago?

No. There is a requirement in the new law that the Department of Revenue ensure distribution of scholarships throughout the entire state in proportion with nonpublic school enrollment. However, after June 1 of each year, remaining credits will be distributed on a first come, first serve basis without regard to location.

STUDENTS

Who qualifies for scholarships?

A student qualifies if his or her family earns 300% of the federal poverty level or less (\$73,800 for a family of 4) the tax year previous to first receiving a scholarship. Once a student receives a scholarship, his or her family can earn up to 400% of the federal poverty level (\$98,400 for a family of 4).

The student must also have been eligible to attend a public elementary school or high school in Illinois in the semester immediately preceding the semester for which he or she first receives a scholarship, or the student must be starting school in Illinois for the first time when he or she first receives a scholarship. Students currently enrolled in Catholic schools can qualify!

From January 1 to April 1, priority will be given to students from each of the following categories:

- students who received a scholarship from an SGO during the previous school year;
- students who are members of a household whose previous year's total annual income does not exceed 185% of the federal poverty level (\$24,600 for a family of 4);
- students who reside within a focus district (a poorly performing school district); and
- students who are siblings of students currently receiving a scholarship.

After April 1, all other qualifying students will be able to receive scholarships.

What are the responsibilities of the student and his or her custodian?

To participate in the program the custodian and student:

- must select a qualified school and apply for the admission;
- ensure that the student participating in the scholarship program takes the required assessment;
- comply with the qualified school's published policies; and
- authorize the SGO to access information needed for income eligibility determinations.

How will it be determined whether students are benefiting from this program?

All students who receive scholarships will be required to take the state assessment.

ISBE will select an independent research organization to conduct an annual study examining the year-to-year learning gains of students receiving scholarships and a comparison of these learning gains to public school students with similar demographic backgrounds. Participating schools must provide this organization with the assessment results of scholarship students.

The sharing and reporting of student data under this Section must be in accordance with requirements of the Family Educational Rights and Privacy Act and the Illinois School Student Records Act. All parties must preserve the confidentiality of such information as required by law. The annual report must not disaggregate data to a level that will disclose the academic level of individual students.

SUNSET

A taxpayer may take a credit under this Act for tax years beginning on or after January 1, 2018 and ending before January 1, 2023. A taxpayer may not take a credit pursuant to this Act for tax years beginning on or after January 1, 2023.

This Act is repealed on January 1, 2024.