FEDERAL SCHOLARSHIP
TAX CREDIT COALITION

Key Rulemaking Issues
Education Freedom Tax Credit (IRC § 25F)

As of July 2026

With its June 2026 preview of the expected rules for the Education Freedom Tax Credit (EFTC), the U.S. Department of Treasury gave governors and states all the information they need to decide whether to opt in and give K-12 students access to EFTC-funded scholarships in their jurisdictions. In fact, 30 states have officially informed Treasury that they will submit lists of scholarship granting organizations (SGOs) for 2027. Among other things, governors can now be confident that:

- Children in all school sectors—including traditional district public schools, public charter schools, and private schools—can be served by SGOs.
- Once a state opts in, it cannot block an SGO from serving students in a state if the SGO complies with federal law—regardless of whether the SGO aligns with a governor's politics, values, or interests.
- Governors can completely block children in their states from receiving EFTC-funded scholarships, but they cannot block taxpayers from getting the credit if they donate to an authorized SGO in another state.
- Governors are permitted to highlight SGOs that match their political and personal interests—focusing, for example, SGOs providing scholarships for afterschool tutoring programs for public school students in low-income communities.

In contrast to governors, other stakeholders—including scholarship granting organizations (SGOs), taxpayers, students, and schools and other education providers—are awaiting final answers to key questions related to implementation. Treasury said it plans to deliver the EFTC rules for 2027 by the end of September.

The FSTC Coalition has compiled the following list of key issues that Treasury still needs to resolve during its rulemaking. If you have other issues that you would like us to monitor, please let us know by emailing us at questions@theFSTCcoalition.org.

State Opt-ins

- **Will governors and states be allowed to opt in for 2027 after January 1st?**

  The law implies in § 25F(g)(1)(A) that states should be able to elect to participate after January 1st during the first year of the program, but Treasury has not yet confirmed it will accommodate such requests.

- **In 2027, when will governors and states be allowed to opt in for 2028?**

  Treasury allowed governors and states to indicate their advance election for 2027 starting in January 2026. This January date allowed SGOs and other stakeholders the maximum amount of time to prepare for successful implementation, and we encourage Treasury to adopt it as an annual practice.

State SGO Lists and the IRS Portal

- **What exactly is the process and timeline for governors (or other state officials) to submit their State SGO Lists for 2027?**

  Treasury has provided a general picture of how governors can compile their State SGO Lists. We even know that the IRS intends to set up a web portal to facilitate administration of the SGOs. But we still don't know when lists can be submitted (earlier is better), whether governors will be allowed to submit SGOs on a rolling basis (they should be), what paperwork is required, or how governors should assess SGOs against provisions of the law that cannot be verified in advance of implementation. The Coalition has encouraged Treasury to use a combination of third-party verifications, safe harbors, and attestations under threat of perjury, especially in the first year of operations.

- **Similarly, what exactly is the process and timeline for SGOs to apply for inclusion on a State SGO List in 2027?**

  Treasury has acknowledged that it will expect governors to welcome requests from any SGO seeking to be included on the State SGO List. States are responding and shaping staff to handle SGO application processing and compliance. We do not know if governors will be expected to design their own SGO application processes or if Treasury will facilitate or standardize this process with deadlines, forms, or the IRS portal. The Coalition has recommended an efficient, standardized process to help ensure equal treatment for SGOs across state boundaries.

- **Will the State SGO Lists be posted on the IRS portal for public review, and what information will be included?**

  Taxpayers interested in making SGO donations and families interested in applying for K-12 scholarships would appreciate key information about the SGOs that are qualified to operate in states. By serving as a central and public source of truth for qualified SGOs, the IRS would ensure taxpayers that an SGO has been authorized by a state to receive EFTC-eligible donations. Basic information about each SGO’s mission and focus will be helpful to taxpayers and families, as well as to employers that want to incorporate SGO donation withholding into their payroll systems.

- **What recourse will an SGO have if it believes it complies with § 25F but the governor has omitted it from the State SGO list?**

  Several governors have described how they would prefer to block taxpayers from donating to specific types of SGOs. While Treasury has explicitly said such behavior would not be allowed, the FSTC Coalition remains concerned that governors will not approve some SGOs based on personal whims, political pressure, or a new SGO’s short time in business, rather than compliance with the law. This will be a perpetual problem, and Treasury should determine what its appeal process will be.

Taxpayer/Donor Contributions

- **Will Treasury impose a "marriage penalty" on couples filing jointly, or will each individual in a couple be allowed a credit up to $1,700 for a total of $3,400?**

  Treasury staff says that they have listened closely to both sides of this debate and will reveal in the September 2026 guidance how they interpret the law and its silence regarding married couples filing jointly. The higher amount would mean billions in extra funds for scholarships each year and more robust scholarship programs to serve children.

- **If a state provides a partial credit for individual contributions to a state-based K-12 scholarship program, how should donors and SGOs handle those contributions?**

  The law accommodates donors to state-based scholarship programs by allowing such donors to apply non-credited portions of their state contributions toward the EFTC. For example, if the state gives a 75% credit for donations to the state program and a taxpayer donates $10,000 to it, that taxpayer can get a credit under § 25F of up to $1,700 from the $2,500 non-credited amount. The Coalition has encouraged Treasury to facilitate these transactions by encouraging donors to make a single payment to a state-based SGO, which would then direct up to $1,700 of any non-credited amount to a segregated account for the EFTC. The SGO would handle the donor acknowledgments and document the contributions.

  Note that interactions with state-based credits are not complicated if the state credit is dollar-for-dollar against state taxes. In such cases, taxpayers are not allowed to get credits for both taxing authorities from a single donation, so taxpayers would need to make two contributions—one to take advantage of the state credit and another for the federal credit. Also, unlike many state programs, businesses are not eligible for the federal scholarship tax credit, so the federal/state interactions are limited to individual donations to SGOs.

- **Will the IRS place any restrictions on donor intent, beyond prohibiting earmarking contributions for a specific student?**

  The law already prohibits SGOs from earmarking or setting aside "contributions for scholarships" from a donor for "any particular student." The Coalition's position is that, other than this one restriction, SGOs can allow donors to restrict the use of their funds to, for example, specific regions, school models, types of students, programs, and even a specific school. Treasury has not yet publicly confirmed its agreement on this point.

- **For taxpayers who donate to a multi-state SGO, will they be given the opportunity to designate the state where they would like the contribution deployed?**

  Some SGO donors may not care about the geography where a multi-state SGO deploys their contribution, but many will. Treasury has not clarified whether SGOs operating in multiple states will be required to give donors the opportunity to indicate their state preferences. Will SGOs be allowed to allocate non-designated donations where they see the greatest need?

- **If a taxpayer donates to more than one qualified SGO, how will that be handled?**

  Some taxpayers will want to divide their contributions among various specialized SGOs that appeal to their various interests, such as foster children, military-connected students, or local low-income students. The IRS has announced that each donor will be assigned a unique donor number by the recipient SGO, suggesting that these taxpayers would be assigned multiple unique numbers. Will Treasury have a system for rationalizing all the forms and filings implied by this scenario?

- **How will the FSTC interact with other tax credits, such as the Earned Income Tax Credit or the Child Tax Credit, some of which are, unlike the FSTC, refundable?**

  Treasury needs to clarify if there is an order of operations for claiming the various tax credits that were made available through the Working Families Tax Cut Act. If it is allowed, families would prefer to exhaust their nonrefundable credits, including the FSTC, to reduce the remaining tax liability before applying the refundable credits.

Eligible Education Providers

- **Will Treasury prevent families from choosing "non-school" afterschool providers, except when they are contracted by a "school?"**

  Treasury has suggested that the law's cross-reference to Coverdell might prohibit families from selecting their own extended-day programs (including afterschool and summer programs) without permission of a "school," as defined by the state. In practice, this would mean that families could not choose such programs as Boys & Girls Clubs, YMCAs, and hundreds of community-based organizations unless they are under contract by their child's "school."

  The Coalition's position is that the SGO should select which of the eligible expenses it will cover for families, and then it is up to the family to decide whether to accept the scholarship and how to use it. By over-reading the reference to Coverdell, Treasury could convert a rare student-centric law into just another system-centric law.

Eligible Students

- **Will Treasury disqualify students from receiving scholarships if they attend homeschools, micro-schools, and other innovative models in states that don't technically classify such educational settings as a "school"?**

  At its rule preview, Treasury suggested that the law's cross-reference to another part of the tax code (Coverdell - § 530(b)(3)(A)) might mean that students cannot receive § 25F scholarships unless they attend a "school" as defined in state law. The definition of school was not directly written into 25F or incorporated by reference to it. At least 28 states do not clearly define homeschools, microschools, hybrid schools, and co-ops as "schools."

  The Coalition's view is that all students are eligible for EFTC-funded scholarships if they are "eligible to enroll" in K-12 schools and meet the income requirements. The reference to Coverdell was merely meant to provide a list of the types of eligible expenses, not to impose yet another regulatory regime on the scholarships. Congress did not mean for Treasury to treat EFTC-funded scholarship recipients as if they were the beneficiaries of Coverdell trust accounts. Nor did they intend to directly connect purchases to a specific school building. Moreover, the Congressional intent of using Coverdell was to limit scholarships to educational purchases to improve academics for a specific student, not provide schools with programmatic funding.

- **What "safe harbors" will the IRS establish for income verification of scholarship applicants?**

  SGOs are required in the law to verify that a student's household income fell below 300% of the area median gross income (AMI) in the prior year (that is, 2026 for 2027). Federal tax returns and IRS tax transcripts provide the most complete and reliable picture of prior-year income, and some vendors have secure access to IRS data to instantly verify prior-year income. Treasury is expected to adopt a uniform total income standard based on IRS Form 1040 to facilitate the AMI threshold analysis.

  While that system will work well for many scholarship applicants, Treasury wanted to ensure that SGOs would also be able to easily verify the income eligibility of lower-income families that often do not file federal tax forms. During its rule preview, Treasury outlined some income verification "safe harbors" that would not rely on tax transcripts, including status as a foster child and eligibility for needs-based federal, state, or tribal programs. They also announced they are evaluating whether entire low-income communities might be deemed eligible, similar to how certain schools today qualify for the federal lunch program's Community Eligibility Provision (CEP).

  SGOs are eager to learn exactly which programs will satisfy this safe harbor, which documents will certify eligibility, and what needs to be retained for audit and compliance purposes.

- **What is the “catchment area” for determining the area median gross income (AMI)?**

  Treasury has not clarified whether the income threshold for eligible students (300% of the area median gross income) will be defined by the student applicant’s state, county (which is readily available), or some other jurisdiction available through the Department of Housing and Urban Development.

- **How will the IRS define “disqualified person?”**

  SGOs are prohibited from granting EFTC-funded scholarships to “disqualified persons,” a reference to laws designed to prevent self-dealing. The statute directs Treasury to define the term “pursuant to rules similar to § 4946,” a part of the IRS code addressing potential self-dealing by private foundations. SGOs are not analogous to private foundations, which cannot give grants or contracts to a wide variety of entities and individuals, including all elected and appointed government officials. The Coalition is expecting Treasury to define “disqualified person” as the children and close relatives of an organization’s largest donors and senior managers, but it could reach far beyond that.

- **Can an SGO approved to operate in one state provide scholarships to either: 1) a student resident who is attending a school or program in another state; or 2) a non-resident who is attending a school or program in the SGO’s state?**

  These questions arise because students in border regions commonly traverse state boundaries to attend schools and programs. There are also implications for boarding schools and virtual schools and programs. Congressional intent was not to create a residency requirement to receive a scholarship.

  The law is clear that an SGO in a Covered State (that is, one that has opted in) cannot provide EFTC-funded scholarships to students for schools or programs in an “Uncovered” State. However, this restriction would not necessarily preclude an SGO from granting a scholarship to a student from its own state to attend a school or program in another state, even if that state has not opted in. Nor would it necessarily preclude that SGO from providing scholarships for students from another state for a school or program in its own state. Because of the complexity around these scenarios, Treasury needs to clarify whether they are allowed. The Coalition's view is that they should be allowed under the statute. Otherwise, even if all 50 states opt-in, border students would be permanently locked out of receiving a scholarship.

SGO Operations and Accounting

- **Can an SGO transfer § 25F funds to another SGO, and if so, how will both SGOs demonstrate to the IRS that they have collectively abided by the requirement that no more than 10% of 25F donations are spent on non-scholarship expenses?**

  As the SGO community continues to evolve, a few SGOs have positioned themselves to specialize in raising funds that could be redistributed to other SGOs that specialize in processing applications and distributing scholarships. One example would be an SGO that accepts contributions through the payroll withholding systems of several large employers.

  The Coalition believes Treasury will want to encourage such fundraising intermediaries because they will reduce waste and fraud and because they will help ensure successful implementation of the scholarship programs. But the transfer of funds does complicate how to ensure that at least 90% of contributions under § 25F are used for eligible scholarships. One option would be to require intermediary SGOs to record transfers of collected funds to the implementing SGOs at 100%, and then the recipient SGO would pay any fees to the intermediaries out of the 10% allowed for non-scholarship expenses.

- **How long can an SGO hold a scholarship donation until it must be spent?**

  The statute notes that taxpayers can carry over surplus donations for up to five years, but it is silent on how long SGOs have before committing or spending its §25F contributions. This is relevant to the calculation of the requirement that SGOs use 90% of their "income" for awarding scholarships, especially for donations that come in at year-end along with other charitable giving. Recommendations for this period range from three to five years.

- **How will Treasury define "largely" in determining which SGOs can take advantage of the "90%-of-income" safe harbor?**

  In announcing a potential safe harbor for calculating the law's "90% of income" requirement, Treasury said the safe harbor would only be available "if the organization's activities are largely scholarship-granting activities." We look forward to hearing what the threshold will be for "largely." We recognize that Treasury might both create a numerical standard (such as 51% of expenditures on scholarships) and allow the safe harbor to be used by certain types of SGOs (such as those approved to operate state-based tax-credit scholarship programs).

- **How should SGOs account for multi-year grants in the calculation of the 90% rule?**

  SGOs often provide multi-year scholarships so that families can plan long-term to be at a school. How should SGOs account for this practice in the 90% calculation?

  Multi-year scholarships are consistent with the law's requirement that SGOs prioritize renewals each year, but they raise questions about whether they constitute earmarking by the SGO. The Coalition expects Treasury to clarify that the earmarking prohibition is placed on donors, not SGOs.

Data Requirements for SGOs

- **How will the IRS expect SGOs to implement the "unique donor number" reporting requirement?**

  Treasury has announced that SGOs will be expected to provide a contribution acknowledgement and a "unique donor number" to each donor. Both the SGOs and the donors will provide these unique donor numbers to the IRS in tax filings, so the agency can use a matching process to root out taxpayer fraud. This federal system will be placed on top of existing state-based systems. SGOs are looking to Treasury to clarify how to avoid duplication and administrative burdens.

- **What other data reporting requirements will be imposed on SGOs by the IRS?**

  While the unique donor number addresses donor fraud—that is, attempts by a donor to take a credit without making a qualified contribution—it does not address potential fraud from the creation of fake students and fake schools or other education providers. Nor does it address attempts to receive multiple payments for the same service. Treasury has already suggested that SGOs may need to collect affidavits from families certifying that they have received no other awards covering the same expense. The IRS inevitably will require additional data reporting, and SGOs need to understand the parameters of those mandates. The Coalition has encouraged Treasury to seek methods that place minimal burdens on SGOs as it combats these other sources of fraud.

Payroll Withholding

- **How will the IRS facilitate the accurate remittance of taxes from qualified contributions to SGOs through payroll withholding?**

  SGOs across the country are exploring how to tap into payroll systems to accelerate the collection of donations, reduce fundraising costs, and ensure accurate federal withholding. The current IRS systems can accommodate this already by having each taxpayer amend his or her W-4 to account for SGO contributions, with a net zero impact on each paycheck. The simplest case would still require the taxpayer to set up periodic payments to an SGO.

  The IRS could take several other steps to make it easier for taxpayers to use payroll withholding to make qualified SGO contributions. In these cases, employers, their agents, or payroll providers would transfer contributions periodically as directed by the taxpayer to selected SGOs. The annual contribution would be included on the employee’s W-2, reducing paperwork and potential fraud. The Coalition and SGOs across the country are encouraging IRS to take these extra steps.