Indiana Department of Revenue

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Income Tax Information Bulletin	#108
Subject:	Income Tax Credit for Contributions to a Scholarship-Granting Organization
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References:	IC 6-3.1-30.5; IC 20-51

Replaces Bulletin #108, dated March 2023

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Summary of Changes

Apart from technical, nonsubstantive changes, this bulletin has been changed to reflect that the maximum amount of credits allowable for fiscal years 2024 and later has been increased to $18.5 million per fiscal year.

Introduction

The purpose of this bulletin is to provide guidance concerning the school scholarship tax credit, which is available for taxpayers that make a contribution to a scholarship-granting organization for use by the scholarship-granting organization in a school scholarship program.

Definitions

"Scholarship-granting organization" means an organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code (IRC) and conducts a school scholarship program without limiting the availability of scholarships to students of only one participating school.

"School scholarship program" means a scholarship program certified by the Indiana Department of Education under IC 20-51.

"State tax liability" means a taxpayer's total tax liability that is incurred under the adjusted gross income tax, the financial institutions tax, and the insurance premium tax.

"Taxpayer" means an individual or entity that has any state tax liability.

Entitlement to the Credit

A taxpayer that makes a contribution to a scholarship-granting organization for use by the scholarship-granting organization in a school scholarship program is entitled to a credit against the taxpayer's state tax liability in the taxable year in which the taxpayer makes the contribution. Among other restrictions, this credit relates only to contributions that ultimately are used by public or nonpublic elementary schools (grades K-8) or high schools (grades 9-12). The credit is not available for contributions that are used by colleges, universities, or other institutions of higher education. The credit is also not available for contributions to a scholarship-granting organization that is used to provide a scholarship or assistance to a child participating in the early education grant pilot program under IC 12-17.2-7.2.

A contribution to a scholarship-granting organization shall be considered as having been made for use in a school scholarship program if:

- The contribution is made directly to a school scholarship-granting organization; and
- The taxpayer, prior to or at the time of the contribution, designates in writing to the scholarship-granting organization that the contribution is to be used only for a school scholarship program; or
- The scholarship-granting organization provides the taxpayer with written confirmation that the contribution will be dedicated solely for use in a school scholarship program.

In the case of an individual claiming a credit based on an individual retirement account distribution excludible from federal adjusted gross income under IRC § 408(d)(8), the credit will be allowed. With regard to contributions from a donor advised fund (DAF), the credit will be permitted subject to the rules set forth below:

1. Is the person seeking to claim the credit the actual donor (or one of the actual donors) to the DAF?
    a. If yes, go to 2.
    b. If no, no credit is permitted except to the DAF itself.
2. Is the amount donated in excess of the individual's contribution to the DAF?
    a. If yes, the maximum credit is the contribution less any prior distributions from the DAF attributable to the donor. Go to 3.
    b. If no, then go to 3.
3. Is the amount donated attributable to funds donated to the DAF prior to August 28, 2018?
    a. For purposes of this paragraph, treat distributions as first-in, first-out.
    b. If yes, then the credit is allowable.
    c. If no, then go to 4.
    d. If the answer is partially yes and partially no, then yes to the pre-August 28, 2018 portion and go to 4 for the post-August 27, 2018 portion.

4. For contributions to the DAF on August 28, 2018 and later, did the taxpayer comply with federal regulations under IRC Section 170 and other federal provisions when the taxpayer can receive a benefit from a contribution?
    a. If yes, the credit is allowable.
    b. If no, the credit is denied to the donor and allowed for the DAF itself.

The amount of the credit is equal to 50% of the contribution made to the scholarship-granting organization for a school scholarship program. For taxpayers entitled to a tax credit for a taxable year beginning before Jan. 1, 2013, the taxpayer is not entitled to a carryover, carryback, or refund of an unused credit. For taxpayers entitled to a tax credit for a taxable year beginning on or after Jan. 1, 2013, the credit can be carried forward for nine years after the year in which it is first available. For instance, a credit first available to be claimed in 2020 may be carried forward for the period 2021 to 2029.

A pass-through entity that is entitled to a credit but does not have state tax liability against which the credit may be applied may pass through the credit to a shareholder, partner, or member of the pass-through entity.

To apply a credit against the taxpayer's state tax liability, a taxpayer must claim the credit on the taxpayer's annual state tax return and must complete Schedule IN-OCC, which is available at www.in.gov/dor/tax-forms/ on the department's website.

Maximum Credit

There is no limit on the amount of credit an individual taxpayer can claim. The maximum credit for all taxpayers in a state fiscal year is limited to:

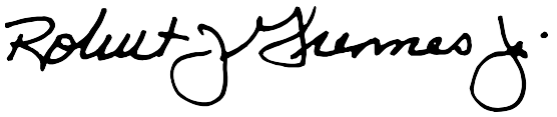
$2,500,000 for fiscal years 2009-2010
$5,000,000 for fiscal years 2011-2012
$7,500,000 for fiscal years 2013-2015
$8,500,000 for fiscal year 2016
$9,500,000 for fiscal year 2017
$12,500,000 for fiscal year 2018
$14,000,000 for fiscal year 2019
$15,000,000 for fiscal year 2020
$16,500,000 for fiscal year 2021
$17,500,000 for fiscal year 2022
$18,500,000 for fiscal year 2023 and later

Additional Information

For more information concerning the school scholarship program, multiple resources are available. Information related to the application of the credit and remaining credits available to be awarded during a state fiscal year can be found on the Indiana Department of Revenue's

website at in.gov/dor/individual-income-taxes/school-scholarship-credit. Additional information from the Indiana Department of Education is available at in.gov/doe/students/indiana-choice-scholarship-program/. For a complete list of scholarship-granting organizations, click the Approved SGOs link at the bottom of the Department of Education website.

If you have any questions concerning this bulletin, please contact the Tax Policy Division at taxpolicy@dor.in.gov.



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