



October 22, 2026

Scott K. H. Bessent, Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: Guidance on the Federal Scholarship Tax Credit

Dear Secretary Bessent,

As Governors, we share a commitment to ensuring that every student has access to a high-quality elementary and secondary education and to strengthening the public schools that serve the vast majority of our nation's children. As we consider whether to participate in the Federal Scholarship Tax Credit under Section 25F of the Internal Revenue Code, we seek clarity on whether and how the program can provide meaningful opportunities for public school students while avoiding unintended consequences that could divert resources from or otherwise weaken our public education systems.

We have reviewed the temporary and proposed regulations issued by Treasury on October 2. While those regulations provide important guidance on state election, Scholarship Granting Organizations (SGOs), student eligibility and other topics, significant questions remain as we consider whether to opt in for 2027. The substantive Section 25F regulations are not yet final, and Treasury has indicated that additional guidance concerning qualified elementary and secondary expenses will be forthcoming. With states facing a decision by the end of this year, we seek further clarification to ensure that Governors have the information necessary to make fully informed decisions about participation.

We respectfully request additional guidance in the following areas:

State authority and oversight. The temporary and proposed regulations prohibit participating states from imposing SGO-specific substantive requirements that are more restrictive than federal requirements. States, however, are responsible for determining whether organizations qualify for inclusion on their SGO lists, reviewing required information, addressing noncompliance and removing organizations that no longer qualify.

- To what extent can states require SGOs to maintain systems that protect student data or impose other similar safeguards?
- Given that the regulations contemplate SGOs operating in multiple states through separate state accounts, what oversight responsibilities do states have over multistate SGOs, particularly where the SGO is headquartered in another state?

Waste, fraud, and abuse. We appreciate that the regulations establish audits, recordkeeping, eligibility verification, expense verification, reporting and protections against duplicate

reimbursements. However, we would benefit from additional information about how these provisions will operate in practice.

- The temporary and proposed regulations require SGOs to report information to the IRS. What information will the IRS make available to participating states so that states can diligently monitor SGO activities for fraud and abuse as required under these rules?
- To what extent are states permitted to establish generally applicable financial-integrity and anti-fraud requirements beyond the federal minimum where those requirements do not alter student eligibility, qualified expenses or the substantive purposes of an SGO?
- What federal enforcement will occur when an SGO violates program requirements?

Public school students and qualified expenses. The proposed regulations expressly permit SGOs to award individual scholarships for academic tutoring or special needs services for qualified students attending public schools in low-income areas. However, the full scope of qualified elementary and secondary education expenses remains unresolved pending additional guidance. We request that Treasury issue the forthcoming guidance on qualified education expenses as soon as practicable and that it address the following questions specifically:

- Which tutoring, special-needs services, transportation, educational technology, after-school programming, summer programming, and other services qualify as elementary and secondary education expenses?
- With respect to the proposed “safe harbor” for academic tutoring or special needs services, states would benefit from clarification regarding the standards for determining academic need, tutor qualification, independent diagnosis, appropriate quality standards, required frequency and duration of services, and assessment of individual student outcomes as contemplated by the proposed regulation.

Ability to use funding to close opportunity gaps. Section 25F establishes an income ceiling of 300 percent of area median gross income, and the proposed regulations indicate that individual SGOs may voluntarily focus their programs on students with lower incomes or particular educational needs. At the same time, states generally may not require all SGOs to adopt narrower eligibility standards.

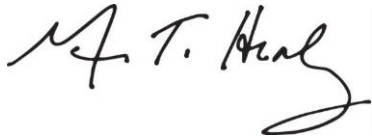
- What actions may a participating state take to encourage access for low-income students, students with disabilities, students attending high-poverty public schools and other students with significant educational needs without imposing prohibited substantive requirements on SGOs?
- Can states collect and publish information about the income, geography, school enrollment, disability status, or other characteristics of scholarship recipients in order to assess the impact of participation, as well as promote organizational transparency and donor accountability, consistent with applicable privacy laws?

Associated costs. The temporary and proposed regulations do not address costs for participating states to oversee compliance. The preamble to the proposed regulations concludes that the Federal Education Tax Credit does not impose substantial costs on state governments because states can decide not to participate.

- Are there federal funds available to states who choose to participate to carry out the oversight responsibilities imposed on participating states?

We appreciate Treasury's attention to these questions and respectfully request written guidance as soon as practicable so that Governors can make fully informed decisions regarding the 2027 program year. This includes when the Treasury expects to finalize the proposed regulations and whether you will be issuing any additional guidance affecting the 2027 program year.

Sincerely,



Maura T. Healey
Governor of Massachusetts



Gavin Newsom
Governor of California



Ned Lamont
Governor of Connecticut



Gretchen Whitmer
Governor of Michigan



Mikie Sherrill
Governor of New Jersey