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January 14, 2026

Internal Revenue Service
CC:PA:01:PR (Notice 2025-70)
Room 5503
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Notice 2025-70 Request for Comments on Individual Tax Credit for Qualified Contributions to Scholarship Granting Organizations

Dear Sir or Madam,

I write to provide feedback on the Department of Treasury's (Treasury) and Internal Revenue Service's (IRS) request for comments (IRS Notice 2025-70) ahead of forthcoming proposed regulations on the newly created federally-funded scholarship tax-credit program.¹ Public Law 119-21 enacted for the first time a taxpayer-funded Federal Scholarship Tax-Credit program (Program) that allows families who earn up to 300% of the area median gross income to access taxpayer-leveraged scholarships through scholarship granting organizations to pay for elementary and secondary education expenses, including private school tuition.² I have significant concerns about the Program and have long opposed such programs over multiple Congresses. However, now that it is law, I believe it is critical to ensure that the Program is implemented in a way that reduces educational inequities to the extent possible, and provides needed accountability for the distribution of scholarship funds.³

¹ *Request for Comments on Individual Tax Credit for Qualified Contributions to Scholarship Granting Organizations*, U.S. Dep't of Treasury and Internal Revenue Service, <https://www.irs.gov/pub/irs-drop/n-25-70.pdf> (last visited Dec. 17, 2025)(hereinafter *Request for Comments*).

² Pub. L. No 119-21, § 70411 (2025).

³ The federal tax-credit scholarship program is a voucher program. These programs overwhelmingly subsidize wealthy families whose students are already attending private school. The schools that these children attend are not covered by the same educational accountability standards as public schools, and the students and employees are not covered by the same civil rights protections. Research also consistently demonstrates that voucher programs are ineffective and do not increase achievement. Without strong accountability measures, these programs make taxpayer dollars vulnerable to fraud and abuse. This Administration is in the process of dismantling the Department of Education and has proposed sweeping budget cuts to education. As such, it is hard to justify diverting scarce public resources to financing private school education for select students at the expense of the vast majority of students who attend public schools. Limited public resources should be focused on initiatives that improve education

I have several concerns about the direction that the Administration appears to be headed as it issues regulations pursuant to IRS Notice 2025-70. Specifically, I am concerned about the perceived limited role of states to ensure that the implementation of the Program meets their students' educational needs. I am further concerned about the lack of operational safeguards for the Program to ensure that scholarship granting organizations (SGOs) are accountable. I offer the following comments for consideration as the agencies develop guidance and rulemaking on this issue.

States Should Be Able to Set Requirements and Provide Accountability

Public Law 119-21 requires states to opt-in to participate in the Program and charges them with providing a list of eligible SGOs located in the state.⁴ In IRS Notice 2025-70, the agencies indicate that they will likely limit states' authority to set additional requirements for SGOs beyond the minimal statutory requirements, while allowing SGOs the freedom to set their own rules.⁵

This would prohibit states from adding policy priorities, accountability provisions, and guardrails that could protect students in their state and meet their educational needs. Such a policy runs counter to this Administration's claims to "return education to the states."⁶ More practically, this prohibition would conflict with state laws governing the 22 tax-credit scholarship programs in 18 states that currently include some modicum of student protections and financial integrity requirements.⁷ For instance, the State of Florida currently prohibits individuals who have declared personal or corporate bankruptcy, or have been convicted of certain crimes from operating of an SGO under the state scholarship program.⁸ It is unclear whether the agencies intend that state law prohibition to apply to an SGO in Florida that only offers scholarships based on donations made under the federal Program, or whether such SGOs could ignore state law. Aside from the effect on states with existing SGOs, this proposed policy would prevent states without these Programs from setting any state policies that protect students from discrimination, target resources to underserved students for additional academic support, expand after school opportunities for students, or provide accountability measures to prevent waste, fraud, and abuse. Therefore, I urge the agencies to adopt rules and guidance that afford states flexibility to establish SGO eligibility requirements beyond the minimal federal conditions for the purposes of

for all of our children. This is the promise of a public-school education in the United States. Voucher programs, including scholarship tax-credit programs, undermine that promise while hiding behind the guise of school choice for students.

⁴ P.L. 119-21, *supra*, note 2.

⁵ IRS Notice 2025-70 outlines that states electing to participate must submit a list of *all* organizations located in a state that have requested to be designated as an SGO and that meet the minimal requirements under statute. In other words, any SGO in a state that meets the bare minimum requirements in statute must be recognized by a state. This is followed with the pronouncement that the Agencies anticipate that its rulemaking will *not* prohibit an SGO "from itself imposing additional governing provisions beyond the requirements imposed by §25F(c)(5) unless such a provision would conflict with the ability of the SGO to satisfy such requirements." *Request for Comments* at 8..

⁶ Exec. Order No. 14242, 90 Fed. Reg. 13679, (March 25, 2025).

⁷ *Tax-Credit Scholarships*, EdChoice, <https://www.edchoice.org/school-choice/tax-credit-scholarship/> (last visited Dec. 17, 2025).

⁸ Fla. Stat. Ann. § 1002.395.

protecting students, ensuring financial integrity and accountability, as well as ensuring all students and regions are served fairly and equitably.

The Agencies Have a Duty to Prevent Waste, Fraud, and Abuse

No matter how this program may be described, the reality is that the full cost of the Program and the resultant donations to SGOs are borne by taxpayers. As such, the Treasury Department has a fiduciary duty to ensure that the program is fiscally sound, accountable, and has controls in place to limit waste, fraud, and abuse.⁹ It is vital that Program regulations make clear 1) what entity will be responsible for providing oversight, including review of expenses to prevent fraud, waste, and abuse; and, 2) what level of transparency will be provided to taxpayers in how scholarship funds – which are paid with tax dollars – are used.

The findings from a recent audit of Florida's state scholarship programs previews the challenges ahead for ensuring accountability in the federal Program, even when there is some oversight by state authorities.¹⁰ The audit conducted by Florida found significant accounting deficiencies that led to improper payments and the inability to verify the school status of students.¹¹ The Florida debacle raises several questions for consideration:

- 1) If states are not given a role, how will SGOs track students to account for student mobility to verify whether students return to public school and are no longer eligible for scholarships?
- 2) If families are allowed to apply to multiple SGOs for scholarships, how will those SGOs coordinate information and verify student eligibility?
- 3) Will there be transparency with regards to the operations of SGOs and can they appropriately track students and verify expenditures?

⁹ The statute directs the Secretary of the Treasury to issue regulations and guidance to provide for the implementation of the program, including “with respect to record keeping or information reporting for purposes of administering the requirements of this section.” *Request for Comments* at 6. In the state of Arizona, scholarships have been used to buy jewelry, appliances, cell phones, TVs, and over a million dollars in Legos. Individuals have also created fictitious children in order to receive scholarship funding. *See Craig Harris*, ESA parents bought diamond rings, lingerie, and Kenmore appliances with education tax dollars, 12News (Aug. 18, 2025), <https://www.12news.com/article/news/investigations/i-team/education-impact/i-team-empowerment-scholarship-accounts-parents-bought-diamond-rings-luxury-clothing-kenmore-appliances-education-tax-dollars/75-dff40d1f-3a34-435c-9edc-af4150352445>; Joe Dana, Parents of private voucher students spent over \$1 million of public money buying Lego sets, 12News (June 7, 2024), <https://www.12news.com/article/news/education/at-least-1-million-of-public-money-used-to-buy-legos-for-private-voucher-esa-students/75-b73d7a20-66e4-417c-9d30-e2255334b0e>; Press Release, Arizona Attorney General, Attorney General Mayes Announces Two Convictions for ESA Program Fraud (Aug. 27, 2025), <https://www.azag.gov/press-release/attorney-general-mayes-announces-two-convictions-esa-program-fraud#:~:text=From%20December%204%2C%202022%2C%20to,documents%2C%20to%20receive%20ESA%20funding.>

¹⁰ Laura Lumpkin, *How Florida lost track of 30,000 students, a 'cautionary tale' for vouchers*, Wash. Post (Dec. 8, 2025), <https://www.washingtonpost.com/education/2025/12/08/florida-school-vouchers-audit/>; Jay Waagmeester, *'Funding did not follow the child': State audit displays school choice woes*, Florida Phoenix, (Nov. 21, 2025), <https://floridaphoenix.com/2025/11/21/funding-did-not-follow-the-child-state-audit-displays-school-choice-woes/>; Mary Lett, *3,200 Escambia kids get school vouchers. More than 9% are actually in Escambia schools*, Pensacola News Journal (Dec. 3, 2025), <https://www.pnj.com/story/news/local/education/2025/12/03/gaetz-bill-sb-318-would-fix-florida-school-voucher-funding-issue/87479524007/>.

¹¹ Lumpkin, *supra* note, 10.

4) What recourse will parents or education providers have for delayed payments or non-payments?¹²

Taxpayers from every state in this country, whether or not their state participates in this program, will fully subsidize every dollar donated for scholarships under this program. The agencies have a duty to ensure that taxpayer-leveraged scholarships go to eligible students and are spent on defined educational expenses consistent with the statute.

The Agencies Should Set Caps on Student Access to Scholarships

The proposed Program fails to place a cap on how much scholarship aid a single student can receive. This opens the door to inequitable and unmonitored allocation of taxpayer-leveraged scholarships. Without a federal limit or mandated coordination between SGOs, some students could receive far more in scholarship funds than they actually need for their K-12 education while others, particularly those from underserved communities, could be left with inadequate support. Further, uncapped scholarship awards create conditions for potential misuse, especially if there are no systemic checks to prevent over awarding or duplication.

For example, in Arizona, records indicate that student accounts have an accumulated balance of \$175 million in taxpayer dollars, with a significant number of accounts with large balances.¹³ For instance, 420 accounts have \$32 million with balances between \$50,000 and \$210,000.¹⁴

The agencies should include clear, per student scholarship caps tied to actual educational expenses and supported by coordinated reporting across SGOs to support good fiscal policy and maintain the integrity of the program. Without these limits, the Program risks deepening educational disparities under the name of school choice.

Conclusion

These comments are not an exhaustive list of issues and do not begin to cover the full panoply of policy implications at stake under this Program. However, I submit these comments for your deliberations as the agencies engage in rulemaking and craft guidance to implement this Program.

Sincerely,



ROBERT C. "BOBBY" SCOTT

Ranking Member

¹² Mary Lett, *3,200 Escambia kids get school vouchers. More than 9% are actually in Escambia schools.* Pensacola News Journal (Dec. 3, 2025), <https://www.pnj.com/story/news/local/education/2025/12/03/gaetz-bill-sb-318-would-fix-florida-school-voucher-funding-issue/87479524007/>.

¹³ *ESA Voucher Program FY2023: Where the Money Went*, Grand Canyon Institute (Aug. 1, 2024), https://grandcanyoninstitute.org/wp-content/uploads/2024/08/GCI_Policy_Analysis-ESAFY2023_Where_the_Money_Went_Aug_1_2024.pdf

¹⁴ *Id.*