

43-1183. Credit for contributions to school tuition organization; definitions

A. Beginning from and after June 30, 2006 through June 30, 2011, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization.

B. The amount of the credit is the total amount of the taxpayer's contributions for the taxable year under subsection A of this section and is preapproved by the department pursuant to subsection D of this section.

C. The department:

1. Shall not allow tax credits under this section that exceed in the aggregate, a combined total of ten million dollars in any fiscal year. Beginning in fiscal year 2007-2008, the aggregate amount of the tax credit cap from the previous fiscal year shall be annually increased by twenty per cent.

2. Shall preapprove tax credits subject to subsection D of this section.

3. Shall allow the tax credits on a first come, first served basis.

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer shall notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department for the taxpayer's intended contribution amount. The department shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department preapproves the request, the school tuition organization shall immediately notify the taxpayer that the requested amount was preapproved by the department. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization within ten days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required ten days, the school tuition organization shall immediately notify the department and the department shall no longer include this preapproved contribution amount when calculating the limit prescribed in subsection C, paragraph 1 of this section.

E. A school tuition organization that receives contributions under this section shall allow the department to verify that the educational scholarships and tuition grants that are issued pursuant to this section are awarded to students who attend a qualified school.

F. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

G. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed a sole owner.

H. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

I. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any specific student.

J. A school tuition organization that receives contributions under this section shall use at least ninety per cent of those contributions to provide educational scholarships or tuition grants only to children whose family income does not exceed one hundred eighty-five per cent of the income limit required to qualify a child for reduced price lunches under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) and who either:

1. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and transferred from a governmental primary or secondary school to a qualified school.
2. Enroll in a qualified school in a kindergarten program.
3. Received an educational scholarship or tuition grant under paragraph 1 or 2 of this subsection if the children continue to attend a qualified school in a subsequent year.

K. In 2006, a school tuition organization shall not issue an educational scholarship or a tuition grant in an amount that exceeds four thousand two hundred dollars for students in a kindergarten program or grades one through eight or five thousand five hundred dollars for students in grades nine through twelve. In each year after 2006, the limitation amount for a scholarship or a grant under this subsection shall be increased by one hundred dollars.

L. A child is still eligible to receive an educational scholarship or tuition grant under subsection J of this section if the child meets the criteria to receive a reduced price lunch but does not actually claim that benefit.

M. The school tuition organization shall require that the children use the educational scholarships or tuition grants on a full-time basis. If a child leaves the qualified school before completing an entire school year, the qualified school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the educational scholarship or tuition grant to the child. Any refunds received by the school tuition organization under this subsection shall be allocated for educational scholarships or tuition grants to qualified children in the following year.

N. Children who receive educational scholarships or tuition grants under this section shall be allowed to attend any qualified school of their parents' choice.

O. A school tuition organization that receives a voluntary cash contribution pursuant to subsection A of this section shall report to the department, in a form prescribed by the department, by June 30 of each year the following information:

1. The name, address and contact name of the school tuition organization.
2. The total number of contributions received during the previous calendar year.
3. The total dollar amount of contributions received during the previous calendar year.
4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.
5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.
6. For each school to which educational scholarships or tuition grants were awarded:
 - (a) The name and address of the school.
 - (b) The number of educational scholarships and tuition grants awarded during the previous calendar year.
 - (c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.
7. Verification that an independent review of financial statements according to generally accepted accounting principles was completed by a certified public accountant for the previous calendar year.

P. The department shall adopt rules necessary for the administration of this section.

Q. For the purposes of this section:

1. "Qualified school" means a nongovernmental primary school or secondary school:
 - (a) That is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 2005.
 - (b) That annually administers and makes available to the public the aggregate test scores of its students on a nationally standardized norm-referenced achievement test, preferably

the Arizona instrument to measure standards test administered pursuant to section 15-741.

(c) That requires all teaching staff and any personnel that have unsupervised contact with students to be fingerprinted.

2. "School tuition organization" means a charitable organization in this state that both:

(a) Is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice.

(b) Provides educational scholarships or tuition grants to students without limiting availability to only students of one school.