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## LOUISIANA'S TUITION DONATION TAX CREDIT



Bonnie Wyllie

Our firm thought you might be interested in learning about a tax credit that some of our clients are using. Not only does this tax credit provide a benefit to the taxpayer, it is also having a significant impact on education in Louisiana.

In 2017 the Louisiana legislature passed a statute<sup>1</sup> that provides a tax credit for donations made on or after January 1, 2018 to a school tuition organization, which provides scholarships to qualified students to attend a qualified school. There was previously a tax rebate program for scholarships, but this statute converted it to a tax credit to streamline the process for the taxpayer to obtain reimbursement. The purpose of the statute is to provide children from low income families access to a quality education in a private school.

The benefit to the state is that it is cheaper for the child to be educated in a private school rather than in a public school or charter school. This savings is particularly helpful in view of the state's budget problems.

### How the Tax Credit Works

The taxpayer makes a donation to a school tuition organization ("STO"), which is a charitable organization that has been approved by the Louisiana Department of Education to accept and award scholarships in the tuition donation tax credit program.<sup>2</sup> The STO accepts students' applications for

<sup>1</sup> Louisiana Revised Statute 47:6301.

<sup>2</sup> There are at several School Tuition Organizations ("STOs") listed on the Louisiana Department of Education's website at

<https://www.louisianabelieves.com/schools/tuition-donation-credit-program>.

scholarships and awards them to qualified students to attend a qualified school. The scholarships are awarded by the STOs on a first-come, first-served basis.

The STO is required by law to dispense at least 95% of the donations it receives as scholarships to qualified students to attend qualified schools. The other 5% of the donation is used to pay the STO's expenses in the administration of this program. The statute provides that the taxpayer will receive a **Louisiana tax credit for 95% of the donation**, but not for the 5% used for the administration of the program. However, it is likely the taxpayer will be eligible to take a charitable deduction for federal income tax purposes for the 5% amount that is utilized by the STO (which is a charitable organization) for its operational costs.<sup>3</sup>

In order to qualify for the tax credit, the taxpayer must be required to file a Louisiana income tax return. The taxpayer will receive a tax receipt from the STO acknowledging the taxpayer's charitable donation and a tax credit receipt from the Louisiana Department of Education to be used to claim the credit. This credit is earned in the year the donation is made, and it is not contingent on when the cash is actually expended.

The credit is nonrefundable. When the taxpayer prepares the Louisiana income tax return, the credit will offset the taxpayer's tax liability. If the tax credit earned exceeds the total tax liability of the taxpayer in the taxable year, the amount of the unused credit may be carried forward as a credit against subsequent income tax liabilities for up to three years.

### **Tax Benefits to the Donor**

**Scenario 1.** Assume a donor has a **Louisiana income tax liability of \$100,000** for 2018. If the donor contributes \$100,000 to an STO, the donor will be eligible to receive a **credit of \$95,000** towards the payment of the donor's Louisiana income tax liability. This means that for every \$1.00 the donor gives, \$0.95 of it is treated as a payment toward his state income taxes. Thus, the actual out-of-pocket cost for the donor to provide these scholarships is 5% of his donation or \$5,000 in the example above. This means that for every \$1.00 the donor gives, the cost for him to provide the scholarships is \$0.05. If he takes a charitable contribution deduction on his federal income tax return for \$5,000, which is the part of his donation that is not eligible for the Louisiana tax credit, then for every \$1.00 the donor gives, the cost for him to provide the scholarships is roughly \$0.03 or 3%.

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<sup>3</sup> It is unclear whether the taxpayer is eligible to take a federal income tax deduction for the remaining 95% of the donation since the taxpayer received a dollar for dollar credit of 95% of the amount donated to the STO. This would cause the taxpayer to receive a benefit that would exceed the amount of the donation. Since this is unclear, the hope is that the IRS will issue guidance on this particular issue. However, if there is a determination by the IRS that the donation is eligible as a charitable income tax deduction on the federal income tax return, this would be an additional benefit (lagniappe) to the taxpayer.

If the average cost of a scholarship is \$4,000 per child, then his donation would enable about 24 children to receive scholarships. This would cost the donor about \$200 to fund each scholarship. If he takes a charitable contribution deduction on his federal income tax return for \$5,000, then the out-of-pocket cost to the donor is about \$120 to \$150 to fund each scholarship.

**Scenario 2.** Assume a donor has a Louisiana income tax liability of \$10,000 for 2018. If he **contributes \$10,000 to an STO**, the donor will be eligible to receive a **Louisiana tax credit of \$9,500**. This means that for every \$1.00 the donor gives, \$0.95 of it is treated as a payment toward his state income taxes. Thus, the actual out-of-pocket cost for the donor to provide these scholarships is 5% of his donation or \$500. This means that for every \$1.00 the donor gives, the cost for him to provide the scholarships is \$0.05. If he takes a charitable contribution deduction on his federal income tax return for \$500, which is the part of his donation that is not eligible for the Louisiana tax credit, then for every \$1.00 the donor gives, the cost for him to provide the scholarships is roughly \$0.04 or 4% depending on the taxpayer's marginal federal tax bracket.

If the average cost of a scholarship is \$4,000 per child, then the donor's donation would fund about 2.5 scholarships. This would cost the donor about \$200 to fund each of the two full scholarship and \$100 to fund the partial scholarship. If he takes a charitable contribution deduction on his federal income tax return for \$500, then the out-of-pocket cost to the donor is about \$160 to fund each of the two full scholarships and \$80 for the one partial scholarship.

### **The Impact of the Donation on Students and Communities**

The largest provider of private education in the United States is the Catholic Church, and its impact has been significant as shown in research compiled by the Alliance for Catholic Education.<sup>4</sup>

- Students in Catholic schools demonstrate higher academic achievement than similar students in public schools. The overall academic achievement is high in Catholic schools.
- The achievement gap between races and income groups is smaller in faith-based schools.
- The poorer and more at-risk a student is, the greater the relative achievement gains in Catholic schools.
- Black and Latino students who attend Catholic schools are more likely to graduate from both high school and college than their peers from public schools.

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<sup>4</sup> <https://ace.nd.edu/advocates/why-catholic-schools/research-on-the-case-for-catholic-schools>

- Students with multiple disadvantages benefit most from Catholic schools.
- Graduates of Catholic high schools earn higher wages than peers who graduate from public schools.
- Graduates of Catholic high schools are more likely to vote than their peers who graduate from public schools.
- Catholic schools tend to produce graduates who are more civically engaged, more tolerant of diverse views, and more committed to service as adults.

Overall, the students benefit and society in general benefits from Catholic education.<sup>5</sup>

### **Student Eligibility for a Scholarship**

A student will be eligible to receive a scholarship from the STO if he or she meets the income, residency, and prior school year requirements.

- a. The income requirement provides that the family household income does not exceed 250% of the federal poverty guidelines, as established by the Federal Office of Management and Budget.
- b. The residency requirement provides that the family must reside in the state of Louisiana.
- c. The prior school year requirement provides that the student must meet one of the following scenarios:
  - Participated in the Tuition Donation Credit Program during the previous school year;
  - Participated in the Louisiana Scholarship Program during the previous school year;
  - Attended a public school in Louisiana on October 1<sup>st</sup> and February 1<sup>st</sup> of the previous school year; or
  - Be entering kindergarten for the first time.

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<sup>5</sup> Of course, it is likely that other private schools of all faiths and denominations provide some of the same benefits over public schools that are found in the Alliance for Catholic Education research.

Once a student makes the transition from public school to private school in the Tuition Donation Tax Credit Program, they will meet the prior school year requirement annually and can continue attending a private school if they meet the income requirement.

A donor cannot specify that a specific child or a specific school receive the scholarship. However, a donor can designate that **two or more qualified schools** will have their applicants' scholarships funded.

### **Qualified Schools**

A school must be approved by the Board of Elementary and Secondary Education and meet certain criteria before it can be qualified to receive scholarship money from an STO. There are approximately 180 private schools across Louisiana eligible to accept scholarship money in the tuition donation tax credit program.

### **School Tuition Organization**

The scholarships awarded by the STOs cannot exceed the lesser of either the school's tuition and mandatory fees or 80% of the state average per pupil funding for elementary and middle school students (approximately \$4,200) and 90% of the state average per pupil funding for high school students (approximately \$4,700).<sup>6</sup>

### **Conclusion**

The Tuition Donation Tax Credit Program enables taxpayers to provide an enormous benefit to the students that need it most with only a small out-of-pocket cost to the taxpayer. In light of the declining student census in many Louisiana Catholic schools, this scholarship program could be a viable mechanism to help sustain Catholic Schools that need a population boost, enhance virtues and faith-based formation of students formerly educated in public schools, and provide more civically engaged graduates who are more tolerant of diverse views and better members of their communities.

If you have additional questions, please contact Bonnie Wyllie at Lukinovich APLC at 504-818-0401. You can also access additional information on the Tuition Donation Credit Program at the website of the Louisiana Department of Education at <https://www.louisianabelieves.com/schools/tuition-donation-credit-program>.

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<sup>6</sup> Louisiana Department of Education.



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