



## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 10057]

RIN 1545-BS17

### Federal Scholarship Tax Credit

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations that address the new nonrefundable Federal tax credit for qualified contributions to scholarship granting organizations made in 2027 and later taxable years to fund qualified elementary and secondary education scholarships. The temporary regulations implement certain requirements and procedures for States that make elections to participate in this Federal tax credit and organizations that have been certified as scholarship granting organizations by one or more participating States. The temporary regulations affect such States and organizations, and individuals who make qualified contributions to scholarship granting organizations.

**DATES:** *Effective date:* These temporary regulations are effective on **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

*Applicability date:* For dates of applicability, see §§ 1.25F-1T(b), 1.25F-4T(f), and 1.25F-5T(f).

**FOR FURTHER INFORMATION CONTACT:** Concerning these temporary regulations, Constance Chien, (202) 317-7009, or Andrew Fahmy, (202) 317-6487 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

## **Authority**

This document amends 26 CFR part 1 (Income Tax Regulations) by adding temporary regulations that address certain aspects of the application of the credit available for qualified contributions under section 25F of the Internal Revenue Code (Code),<sup>1</sup> as added by section 70411 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

The temporary regulations are issued under section 25F(h), which expressly delegates authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) to issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of section 25F, including regulations or other guidance (1) providing for enforcement of the requirements under section 25F(d) and (g), and (2) with respect to recordkeeping or information reporting for purposes of administering the requirements of section 25F. The temporary regulations also are issued under the express delegation of authority in section 7805(a) of the Code, which authorizes the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

## **Background**

As added by section 70411(a) of the OBBBA, the nonrefundable income tax credit under section 25F (section 25F credit) is allowed to an individual who is a citizen or resident of the United States (within the meaning of section 7701(a)(9)) who makes qualified contributions to a "scholarship granting organization" (SGO). Pursuant to section 70411(c)(1) of the OBBBA, the provisions of section 25F apply to taxable years ending after December 31, 2026. Additionally, for taxable years ending after December

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<sup>1</sup> Unless otherwise indicated, all section references are to the Internal Revenue Code or the Treasury Regulations issued thereunder.

31, 2026, section 139K, as added by section 70411(b) of the OBBBA, excludes from the gross income of individuals or their dependents any amounts received after December 31, 2026, pursuant to SGO-provided scholarships for qualified elementary or secondary education expenses of eligible students. See section 70411(c)(2) of the OBBBA.

A notice of proposed rulemaking (REG-117199-25) containing a comprehensive set of proposed regulations under section 25F (proposed regulations) is published in the Proposed Rules section of this issue of the **Federal Register** and provides detailed information regarding the provisions of section 25F and the proposed regulations, including requirements for an organization to qualify as an SGO, for a contribution to qualify as a “qualified contribution” eligible for a section 25F credit, and for a State to qualify as a “covered State” that participates under section 25F.

The temporary regulations contained in this Treasury decision provide reporting and recordkeeping requirements for SGOs and requirements for elections that States must make to participate under section 25F. The proposed regulations satisfy the requirement of section 7805(e)(1) for proposed regulations to be published concurrently with the publication of temporary regulations. The text of the proposed regulations is identical to the text of the temporary regulations at §§ 1.25F-1T, 1.25F-4T(b) and (c), and 1.25F-5T (except that the temporary regulations cross-reference other provisions of the temporary regulations and do not refer to any provision of the proposed regulations). Interested persons are directed to the **ADDRESSES** and **COMMENTS** and **PUBLIC HEARING** sections of the preamble to REG-117199-25 for information on submitting public comments or requesting to testify at, or attend, the public hearing for the proposed regulations.

## **Explanation of Provisions**

### **I. Definitions.**

Section 1.25F-1T provides definitions of terms generally applicable for purposes

of applying the temporary regulations, including certain defined terms explained in this part of the Explanation of Provisions to provide additional context.

### *1. Located in the State*

Section 25F(g)(1)(A) states that an electing State must provide a list of the SGOs that meet the requirements described in section 25F(c)(5) and are located in the State. In responding to a request for feedback in Notice 2025-70, 2025-50 I.R.B. 773, many stakeholders suggested that “located in the State” should mean registered to do business in the State and in compliance with otherwise applicable State laws for nonprofit organizations. Some of these stakeholders stated that requiring a physical headquarters or in-State staff would be unnecessary, inconsistent with existing State tax credit programs, and would significantly hinder effective multistate SGOs that are well-positioned to deliver scholarships at scale.

Other stakeholders stated that an SGO should be required to have a physical presence in the State if required by State law, arguing that “located in the State” straightforwardly means headquartered in the State, rather than simply being authorized or registered to solicit donations there. These stakeholders stated that the phrase “located in the State” appears in more than 90 sections of the U.S. Code and that none could be read to mean “authorized to operate.” Many of these stakeholders expressed the concern that allowing large multistate SGOs to be located in a State where they did not have a physical presence might limit a State’s ability to implement its educational policies.

Section 1.25F-1T(a)(10) provides that an organization is “located in a State” if the organization is authorized to do business in the State and is in compliance with the generally applicable State laws and requirements for charitable organizations in the

State, including provisions for transparency, accountability, and fraud prevention.<sup>2</sup> The Treasury Department and the IRS have determined that this definition is consistent with the legislative purpose of section 25F to increase access to scholarship funds.

## *2. Qualified contribution*

Section 1.25F-1T(a)(12) provides that a “qualified contribution” is a charitable cash contribution made by an individual to an SGO to the extent it is designated as such by the donor at the time of contribution. If the SGO provides any goods or services as consideration for any part of the contribution, then the value of those goods and services must be subtracted from the amount of the charitable contribution to arrive at the amount of the qualified contribution.

For this purpose, the term “cash” means physical currency, check, money order, electronic transfer (including, for example, by credit or debit card), after-tax payroll deduction, or other similar method, in each case all in U.S. dollars, but does not include any digital assets.

Under this definition, a donor is required to designate to the recipient SGO, at the time of making the contribution, that the contribution is intended to be a qualified contribution, which requires the SGO to deposit the contribution into the SGO’s section 25F segregated account as part of the SGO’s compliance with sections 25F(c)(3) and 25F(c)(5)(B). If the SGO is a multistate SGO, the donor would be able to direct the recipient SGO to allocate the qualified contribution to the multistate SGO’s section 25F segregated account for any one or more of the covered States on whose State SGO list the SGO appears. Once a qualified contribution has been deposited into an SGO’s section 25F segregated account, the SGO must use the funds in accordance with the operational requirements in section 25F(d) to maintain its status as an SGO.

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<sup>2</sup> However, § 1.25F-5T(e)(2) prohibits covered States from imposing requirements on SGOs that are more restrictive than the requirements in section 25F(c)(5).

### *3. Scholarship granting organization*

Section 1.25F-1T(a)(16) provides that a “scholarship granting organization” or “SGO” is an organization defined in section 25F(c)(5). Accordingly, donations made to an organization that generates State tax credits may or may not give rise to a section 25F credit, depending on whether the organization separately satisfies the Federal tax law requirements to be an SGO for purposes of the section 25F credit. For example, a contribution to an organization that qualifies for State tax credits but is not included on the State SGO list of one or more covered States in which the SGO is located, does not give rise to the section 25F credit.

Notice 2025-70 recognized that organizations may fundraise and award scholarships in more than one State and distinguished an organization that is located in only one State (single-State organization) from one that is located in more than one State (multistate organization). The temporary regulations preserve this distinction in § 1.25F-1T(a)(20), defining a “single-State SGO” as an organization included on the State SGO list of only one covered State, and § 1.25F-1T(a)(11), defining a “multistate SGO” as an SGO that is included on the State SGO list of more than one covered State.

Although § 1.25F-5T(e)(2) clarifies that a State may not narrow the required elements of an SGO as described in section 25F(c)(5), any particular SGO may narrow its own focus and adopt more stringent requirements than those applicable under section 25F. For example, an SGO may choose to limit its scholarships for qualified elementary and secondary education expenses to specific subject matter areas such as science or foreign languages, or to students whose household income is less than 80 percent of the area median gross income, provided that the SGO meets the statutory and regulatory requirements for SGOs. The Treasury Department and the IRS assume that SGOs will publicize their particular missions, the scope of their scholarships for eligible students, and their successes in achieving better student outcomes, in order to

attract more qualified contributions from taxpayers supportive of their mission.

## **II. Reporting and Recordkeeping Requirements for SGOs**

### *A. Overview*

Pursuant to the authority granted by section 25F(h)(2), § 1.25F-4T provides rules requiring electronic registration and contribution reporting by SGOs. Section 1.25F-4T(b) describes the mandatory registration process for organizations through the IRS SGO portal. Section 1.25F-4T(c) provides the requirements for an organization's acknowledgement, recordkeeping and reporting for the receipt of amounts designated as qualified contributions.

### *B. Mandatory registration through IRS SGO portal*

In determining how to enforce and administer the requirements of section 25F, the Treasury Department and the IRS considered paper or electronic communications and determined that an IRS SGO portal provides the most efficient way to interact with SGOs in a timely manner. Section 1.25F-4T(b) requires an organization to register electronically through the IRS SGO portal, which allows each organization to obtain instructions for creating a unique donor number, based on a uniform format to be used by all SGOs, and report qualified contribution information to the IRS. The organization also uses the IRS SGO portal to periodically authorize disclosure of the organization's name and identifying information on the IRS SGO list for a calendar year, available on <https://www.irs.gov>. An organization must authorize such disclosure if it wants the IRS to publish such information on the IRS SGO list.

Because an organization will not be able to generate the unique donor number to provide to a donor until the organization registers in the IRS SGO portal, and because a donor will need that unique donor number to substantiate a qualified contribution, § 1.25F-4T(b)(2) requires an organization to complete the registration process with the IRS as soon as possible and preferably before the organization appears on any State

SGO list.

Section 1.25F-4T(b)(3) describes the information required to register, specifically: the organization's name, IRS employer identification number (EIN), address, telephone number, and year of formation; the name of a person whom the IRS may contact if there is an issue with the organization's registration; the organization's taxable year; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as provided in guidance. Section 1.25F-4T(b)(4) provides that the IRS will review the information provided to verify that all the required information has been submitted and will provide instructions to the organization for creating a unique donor number in a uniform format to be used by all SGOs, for each donor who has designated at least one payment to the organization as a qualified contribution to the SGO during the calendar year.

*C. Donor acknowledgement and reporting of qualified contributions received by SGOs*

Notice 2025-70 asked what information SGOs should be required to provide to their donors, including whether SGOs should be required to provide the donor with written substantiation in order for the donor to take the section 25F credit. Many stakeholders recommended that SGOs provide a standardized donor acknowledgement form to taxpayers that would include the donor's name and address, the name of the SGO and its EIN, and the amount of the qualified contribution. Other stakeholders suggested that SGOs should not be responsible for reporting the particulars of a donation, other than informing donors that the donation could be eligible for the section 25F credit.

Section 1.25F-4T(c)(1) requires the organization to transmit a timely written acknowledgement to each donor with respect to qualified contributions made by such donor during the calendar year. Section 1.25F-4T(c)(1)(i) requires the timely written acknowledgement to include: the organization's EIN; the total amount of contributions

made by the donor to the organization during the calendar year that the donor designated as qualified contributions; the unique donor number provided to the donor; a statement as to whether the organization provided any goods or services in consideration for any qualified contributions made by the donor; and a description and good faith estimate of the value of any such goods or services. Section 1.25F-4T(c)(1)(ii) requires organizations to provide the timely written acknowledgement to the donor no later than January 31 of the calendar year following the calendar year in which the donor made a qualified contribution. The timely written acknowledgement may be provided in writing or in any other form acceptable to the donor, including by electronic delivery if the donor consents to receiving the statement electronically and has not withdrawn the consent before the statement is furnished.

Section 1.25F-4T(c)(2) requires organizations to report information about qualified contributions to the IRS. Section 1.25F-4T(c)(2)(i) requires the following information to be reported with respect to each unique donor number assigned by the organization: the donor's name and address; the aggregate amount of qualified contributions made by the donor to the organization during the calendar year; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F, as may be described in further guidance. Section 1.25F-4T(c)(2)(ii) requires organizations to report this information no later than February 28 of the year following the calendar year in which such qualified contributions were made. Unless otherwise provided in guidance, the reporting is required to be done through the IRS SGO portal in accordance with the instructions provided therein.

### **III. State election, State SGO list and certification of SGOs**

#### ***A. Overview***

Section 1.25F-5T provides rules for a State election and a State's identification and certification of organizations located in the State that are SGOs. Section 1.25F-

5T(b) describes rules for the State to register in the IRS State section 25F portal, which, except for the first year for which the State makes an election, may be used for the submission of the State election (including advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in accordance with guidance. Section 1.25F-5T(c) describes the requirements for a State election. Section 1.25F-5T(d) provides rules regarding the State SGO list, including information and certifications a State is required to provide for each organization included on the State SGO list and procedures a State is required to use in determining whether an organization is an SGO. Section 1.25F-5T(e) addresses State administrative requirements for SGOs.

#### *B. IRS State section 25F portal*

Notice 2025-70 stated that the Treasury Department and the IRS anticipated that the forthcoming proposed regulations under section 25F would require the State to electronically submit the State election, the State SGO list, and certification to the IRS. Commenters supported an electronic process for States to submit State SGO lists, as they considered electronic submissions to be more efficient and timelier than paper submissions. Thus, § 1.25F-5T(b) requires a State that chooses to participate under section 25F to register for and use the IRS State section 25F portal in accordance with the instructions therein.

Section 1.25F-5T(b)(2)(i) provides that the Governor of the State or such other individual, agency, or entity as is designated under State law to make elections with respect to Federal tax benefits on behalf of the State may authorize up to two designated officials to register for and use the IRS State section 25F portal.

Section 1.25F-5T(b)(2)(ii) requires each designated official to be an elected official, the Director of Taxation, or an appointed official of the State. Section 1.25F-5T(b)(3) requires States to obtain or be assigned a special-purpose EIN for purposes of

registering. The IRS will inform States how to obtain this EIN, and States will not be required to use a Form SS-4, Application for Employer Identification Number, for these purposes. Section 1.25F-5T(b)(4) requires that the following information be provided to register: the special-purpose EIN; contact information, including the name, official title, telephone number, and email address of the State's designated officials; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

At the conclusion of the registration process, a State will be able to electronically transmit through the IRS State section 25F portal its State election (including advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in future guidance.

To mitigate the risk of any State's implementation issues for the first year for which the IRS State section 25F portal will be operational, the IRS is considering the creation of alternative temporary procedures that would be outlined in future guidance to help ensure that all States that wish to participate under section 25F are reasonably able to complete their registration for the IRS State section 25F portal or otherwise submit the State election and State SGO list.

### *C. State election*

#### *1. In general*

Section 1.25F-5T(c) provides the procedure for making a State election. Section 1.25F-5T(c)(1) provides that, except as provided in § 1.25F-5T(c)(3), the State election may be made either as an advance election that is perfected through the submission of the State SGO list or as an election made with such submission.

Several stakeholders recommended restricting a State's ability to "opt out" after having made an election. Many stakeholders stated that States should not be able to opt out on a year-to-year basis, as families and students will rely on these scholarships

for multiple years. However, in response to that feedback and to clarify the application of section 25F(g), § 1.25F-5T(c)(1) confirms that an election to participate under section 25F is made only for a single calendar year, and that all of the requirements in § 1.25F-5T(c) must be satisfied for each year for which an election is made. The advance election procedure in § 1.25F-5T(c)(3), discussed in part III.C.2. of this Explanation of Provisions, enables a State to opt in for an upcoming calendar year by making an advance election and then later, in effect, opt out by failing to perfect the election in accordance with § 1.25F-5T(c)(3)(ii). The Treasury Department and the IRS do not interpret section 25F(g) as allowing for any revocation once a State has completed its State election for the year, including an advance election that has been perfected.

As described in section 25F(g)(1)(B), § 1.25F-5T(c)(2) specifies that an election must be made by the Governor of the State or by such other individual, agency, or entity as is designated under State law to make such elections on behalf of the State with respect to Federal tax benefits.

## *2. Advance election procedure*

Notice 2025-70 stated that the Treasury Department and the IRS read section 25F(g) to provide that an election by a State to participate under section 25F may be made prior to or contemporaneously with the submission of the State's list of all organizations located in the State that satisfy the definition of an SGO. On December 12, 2025, the Treasury Department and the IRS issued Rev. Proc. 2026-6, *Advance Election to Participate Under Section 25F for 2027*, to allow States, including the District of Columbia, to make an Advance Election to participate in a new tax credit for calendar year 2027.

Section 1.25F-5T(c)(3) provides guidance for States on how to submit an election in advance of the submission of the State SGO list, including guidance for States that

have submitted an advance election for 2027 on Form 15714, *Advance Election to Participate Under Section 25F for 2027*. A State's failure to timely perfect its advance election by providing its State SGO list for a calendar year by the specified date in § 1.25F-5T(c)(3)(ii) would result in a failure to meet the requirements of section 25F(g), effectively preventing any organization in the State from qualifying as an SGO for the calendar year for which the advance election was not perfected.

Section 1.25F-5T(c)(3)(iii) provides that the IRS will maintain and publish on <https://www.irs.gov> a list of States that have made an advance election.

### *3. Timing of State elections under § 1.25F-5T(c)(3)(i) and (c)(4)*

Section 1.25F-5T(c)(3)(i) identifies the time period during which an advance election may be made and § 1.25F-5T(c)(4) identifies the time period during which a State election may be made with the submission of the State SGO list.

Notice 2025-70 stated that the Treasury Department and the IRS anticipated that the forthcoming proposed regulations under section 25F would require each State electing to participate under section 25F for the 2027 calendar year to submit to the IRS, by a specified date before January 1, 2027, the State's list of organizations located in that State meeting the requirements of section 25F(c)(5) for the 2027 calendar year along with the State's certification under section 25F(g)(2), and that those forthcoming proposed regulations would include a similar requirement for submission of an annual list and certification from each electing State for subsequent years.

Section 1.25F-5T(c)(3)(i)(A) provides that, except as otherwise provided in the transition rule in § 1.25F-5T(c)(3)(i)(B), a State may submit an advance election through the IRS State section 25F portal on or after January 2 and on or before September 30 of the calendar year immediately preceding the calendar year for which the election is being made. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

Section 1.25F-5T(c)(3)(i)(B) provides a transition rule for the first calendar year for which the State makes an election. Section 1.25F-5T(c)(3)(i)(B)(1) provides that, for calendar year 2027, a State must submit an advance election on Form 15714 on or before January 1, 2027. Section 1.25F-5T(c)(3)(i)(B)(2) provides that, for future years, a State making its first election to participate under section 25F must submit an advance election as provided in future guidance. Consistent with these transition rules, § 1.25F-5T(c)(4) provides that, for the first year in which the State is electing to participate under section 25F, it cannot make its election with the submission of the State SGO list.

During the last three months of the immediately preceding calendar year or on January 1 of the year for which the election is being made, a State may make its election to participate under section 25F either as part of submitting its State SGO list for that year with the required information and certifications, or by perfecting its advance election made under § 1.25F-5T(c)(3)(i)(A) by providing its State SGO list for that year with the required information and certifications.

Several stakeholders requested clarification that the deadline for an election to participate for the 2027 calendar year should be after January 1, 2027, consistent with section 25F(g)(1)(A). For calendar year 2027 only, a State must submit its advance election on or before January 1, 2027, however, the State may perfect its advance election by submitting its State SGO list on or before February 15, 2027.

Some stakeholders recommended clarifying that the election deadline for calendar years after 2027 should be no later than 11:59 pm on January 1 of the calendar year, to accommodate an election made by a Governor who is newly inaugurated. The Treasury Department and the IRS agree and clarify that, for these purposes, “on or before January 1 of that year” means up to 11:59 pm on January 1.

#### *4. Certifications and other required information for State elections*

Section 1.25F-5T(c)(5) requires that the person with authority to make the State

election, or a designated official, certify that the individual, agency, or entity making the State election has the authority to make the State election on behalf of the State, and the person authorizing any individuals as designated officials under § 1.25F-5T(b)(2) has the authority to do so.

In addition, § 1.25F-5T(c)(5) requires the person with authority to make the State election or a designated official to:

(1) Provide the enacted statutory or regulatory provisions that are binding on the State and establish the authority of an individual to make the State election on behalf of the State, if the individual making the election is not the Governor of the State (or the Mayor of the District of Columbia);

(2) Provide the required information and certifications for each SGO on the State SGO list;

(3) Certify that the State SGO list includes every organization located in the State that is seeking inclusion on the State SGO list, that meets the definition of an SGO, and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements;

(4) Provide the certification of State policies and procedures required for its State SGO list in § 1.25F-5T(d)(6);

(5) Describe any tax credit (including relevant State statutes, regulations, and other authoritative guidance) available under State law for contributions made to SGOs during the calendar year for which the State is electing to participate under section 25F; and

(6) Provide any other information and certifications described in future guidance.

#### *D. State SGO lists*

##### *1. Overview*

Section 3.03 of Notice 2025-70 stated that the Treasury Department and the IRS

interpret section 25F(g) as requiring each covered State to verify that each organization on the State's list satisfies all the requirements of section 25F(c)(5). Section 3.04 of Notice 2025-70 further stated that the Treasury Department and the IRS anticipate that States will be required to have implemented, and to comply with, various procedures to verify that the required information submitted by the covered State is accurate and complete. Section 3.04 of Notice 2025-70 requested comments on what types of uniform policies, procedures, recordkeeping, or other requirements would be reasonable to ensure States can reliably verify that each organization meets the requirements of section 25F(c)(5), and, for States with similar programs, how those States determine whether organizations are meeting applicable requirements.

Many stakeholders favored self-attestation by SGOs that they met the requirements of section 25F(c)(5) so as to avoid the need for any State-level review process, stating that requiring States to verify compliance is overly burdensome and could discourage participation. Several stakeholders expressed concern that providing States with significant discretion over organizations seeking certification as an SGO would permit State officials to discriminate against organizations based on factors other than compliance with the requirements of section 25F. Some stakeholders requested explicit limits on State authority to prevent intrusion into SGO operations, as well as an appeals process for any organizations excluded from a State's list based on the State's administration of SGO requirements.

Section 1.25F-5T(d) provides guidance on State SGO lists. Section 1.25F-5T(d)(2) and (3) describe the information and certifications required as part of the State's election or advance election for a calendar year. Section 1.25F-5T(d)(4) provides a transition rule for an organization that has not yet been required to provide information and certifications. Section 1.25F-5T(d)(5) provides a procedure that applies when an organization's application for recognition of tax-exempt status is pending with

the IRS. Section 1.25F-5T(d)(6) requires a State to make a certification regarding its policies and procedures. Section 1.25F-5T(d)(7) provides rules for changes to a State SGO list, and § 1.25F-5T(d)(8) provides rules for the removal of an SGO from the IRS SGO list. Section 1.25F-5T(d)(9) provides for the publication of the names of covered States and their State SGO lists on <https://www.irs.gov>.

*2. Information the State is required to provide about each SGO on its State SGO list*

Section 1.25F-5T(d)(2) sets forth the information that a State must provide annually with respect to each organization named on the State SGO list, including the name, the EIN, address, and telephone number of the organization; whether the organization has received recognition as a public charity under section 501(c)(3) (section 501(c)(3) public charity), or has a pending application for such recognition; and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

*3. Certifications the State is required to provide about each SGO on its State SGO list*

Except as provided by the transition rule described in part III.D.3. of this Explanation of Provisions, § 1.25F-5T(d)(3) requires the State to certify that, with respect to each organization included on the State SGO list, the organization is located in the State and the organization prevents the co-mingling of qualified contributions with other amounts by maintaining a segregated section 25F account exclusively for qualified contributions, depositing all qualified contributions into its section 25F segregated account, and maintaining a complete set of books and records for its section 25F segregated account. The State also must certify that the organization satisfies each of the operational requirements in section 25F(d) and that the State has determined whether the SGO is a single-State or multistate SGO, reviewed the annual financial and programmatic audit report the organization is required to provide to the State, reviewed annual certifications and other information the organization is required to provide to the

IRS and investigated any failure by the SGO to provide the required certifications and other information and has become reasonably satisfied that the SGO has corrected the failure, if possible, or has put in place procedures to prevent future failures. Finally, a State must certify that the organization satisfies any other requirements the IRS deems necessary for purposes of administering section 25F as may be described in future guidance.

The Treasury Department and the IRS request comments on the certifications States are required to make in accordance with § 1.25F-5T(d)(3), including any other certifications that should be required for a multistate SGO. Comments are also requested on whether any certification is disproportionately burdensome compared to the benefits to tax administration.

*4. Transition rule for an organization that has not yet been required to provide information and certifications to the IRS*

In recognition of the fact that much of the required reporting is of data derived from operations in the prior fiscal year, § 1.25F-5T(d)(4) provides a transition rule for recently formed entities and other organizations without such historical data that have not yet been required to report on their operations as an SGO. This transition rule allows the State to rely on the organization's governing documents or bylaws, written policies and procedures, and other documentation the organization provides to the State as part of its request to be included on its State SGO list, reducing the burden on the State for this type of SGO.

However, for each year for which such an organization is included on the State SGO list during this transition period, § 1.25F-5T(d)(4) requires the State to determine that the organization's provisions, policies, and procedures expressly require the organization to satisfy the operational requirements in section 25F(d), and that the documentation and information available to the State evidences the organization's

ability and intent to satisfy such operational requirements. Section 1.25F-5T(d)(4) also requires the organization to concurrently provide the State with a copy of any information and certifications required to be provided to the IRS before the end of the transition period.

*5. Procedure for when an organization's application for recognition of tax-exempt status is pending with the IRS*

Section 1.25F-5T(d)(5) allows a State to include on its State SGO list those organizations whose applications for recognition of tax-exempt status are pending with the IRS, but only if the State includes on its State SGO list all organizations seeking inclusion on that list whose application for recognition of tax-exempt status is pending with the IRS, the State has complied with the requirements of § 1.25F-5T(d)(4) for each organization, and the State makes the required certifications regarding the organization's tax-exempt status. The required certifications include that the organization has applied for tax-exempt status as a section 501(c)(3) public charity, the organization's tax-exempt status, if granted, will be effective retroactively to a date that is on or before January 1 of the year for which the State SGO list applies, and the State SGO list indicates that such organization's tax-exempt status is pending IRS recognition. Whether tax-exempt status will be effective retroactively to a date on or before that January 1 of the year for which the State SGO list applies is determined by the date of the formation of the organization, the date of its application for recognition of tax-exempt status, and whether any material changes to the organization's activities were required for it to qualify for exemption. See section 6.09 of Rev. Proc. 2026-5, 2026-1 I.R.B. 258 (updated annually).

As provided in § 1.25F-5T(d)(9)(ii), which is discussed in part III.D.8 of this Explanation of Provisions, the IRS will add each of these organizations to the IRS SGO list upon determining that the organization qualifies for tax-exempt status as a section

501(c)(3) public charity, if the organization consents to being included on the IRS SGO list.

#### *6. Certification of State policies and procedures*

Section 1.25F-5T(d)(6) requires a State to certify that its policies and procedures, including its procedures for assessing and responding to audit results, enable the State to make its own determination that each organization on the State SGO list is located in the State, is in compliance with section 25F(c)(5)(A) and (B) and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements. Section 1.25F-5T(d)(6) also requires that a State certify that its policies and procedures provide for the prompt removal of an organization from the State SGO list, and notification to the IRS through the IRS State section 25F portal of such removal, upon a determination that an organization is not an SGO or does not meet the applicable State requirements. A State must certify that its policies and procedures require any publicly available lists of SGOs maintained by the State to be identical to the most recently submitted State SGO list and include the IRS SGO list's URL (Uniform Resource Locator). Finally, § 1.25F-5T(d)(6) requires that the State certify that its policies and procedures ensure that the State's procedures before and after the removal of an organization from the State SGO list are fairly administered and afford due process in accordance with applicable Federal and State laws.

#### *7. Changes to State SGO list*

Section 1.25F-5T(d)(7)(i) and (ii) provide guidance regarding the time period during which a State may replace or supplement its State SGO list for a calendar year. A State may replace or supplement its State SGO list for a calendar year at any time before the deadline for perfecting or completing an election for that year by submitting the change in the IRS State section 25F portal in accordance with future guidance. A State will not be able to make any additions to the State SGO list for a calendar year

after that deadline; instead, any additions a State seeks to make after such deadline may be included as part of the State's submission of its State SGO list for the following calendar year.

Section 1.25F-5T(d)(7)(iii) provides that a State may remove an SGO from its State SGO list at any time during the calendar year to which that list applies. If an SGO requests to be removed from a State SGO list, the State is required to comply.

Many stakeholders requested guidance regarding the State's discretion in removing an SGO from the State SGO list. Stakeholders expressed concern that States could remove SGOs arbitrarily or for political reasons and sought rules to ensure transparency and uniformity regarding the removal process. In response, § 1.25F-5T(d)(7)(iii) provides that a State may remove an organization from its State SGO list if the State determines, through a procedure providing due process to the organization, that the organization is not located in the State, does not satisfy the requirements for an SGO in section 25F(c)(5)(A) or (B), or is not operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements. In each event, the State must indicate the removal and its effective date on its State SGO list and promptly notify the IRS so the IRS can remove the SGO from the IRS SGO list for the current year. The organization will be removed from the relevant part of the IRS SGO list for the current year to ensure that any contributions to the organization after the date of its removal from the State or IRS SGO list are not treated as qualified contributions.

#### *8. Removal of a non-compliant organization from the IRS SGO list*

Section 1.25F-5T(d)(8) provides the list of circumstances under which an organization may be removed from the IRS SGO list. Under § 1.25F-5T(d)(8)(i), the IRS will remove an organization from the IRS SGO list following its determination that the organization is not a section 501(c)(3) public charity or automatic revocation of the

organization's tax-exempt status by function of section 6033(j). Section 1.25F-5T(d)(8)(ii) further provides that the IRS may remove an organization following its determination that the organization has failed to comply with a requirement of section 25F (other than the tax-exempt status requirement in section 25F(c)(5)(A)), or has failed to comply with the applicable reporting and recordkeeping requirements, including a failure to report qualified contributions in accordance with § 1.25F-4T(c). This IRS determination of non-compliance with the requirements of section 25F is a Federal tax controversy under section 7803(e)(3) and § 301.7803-2, which provides the organization an opportunity to seek review by the IRS Independent Office of Appeals in the time and manner prescribed in applicable forms, instructions, or other administrative guidance. Under § 1.25F-5T(d)(8)(iii)(A), the IRS will remove an organization from the part of the IRS SGO list for a particular covered State upon notification that it has been removed from the State SGO list of that covered State.

Finally, § 1.25F-5T(d)(8)(iii)(B) provides that, if a multistate SGO that is removed from a State SGO list under § 1.25F-5T(d)(8)(iii)(A) continues to satisfy the operational requirements in section 25F(d) and one or more other covered States' applicable requirements as described in § 1.25F-5T(e)(1), the SGO will remain on the IRS SGO list with respect to such other covered States, subject to any further discretionary examination of the SGO by such other covered States or the IRS.

#### *9. Publication of covered States and State SGO lists*

Section 1.25F-5T(d)(9)(i) provides that the IRS will maintain and publish the IRS SGO list on <https://www.irs.gov>. For those SGOs that have authorized the disclosure of their information on the IRS SGO list, the IRS SGO list will contain each SGO included on a State SGO list for each of the covered States for the calendar year and reflect each removal from a State SGO list and the date of the removal. If an SGO is removed from the IRS SGO list, its name and identifying information will be displayed in strike-

through text, along with the date of the organization's removal from the list, to provide taxpayers with the information they may need in determining if their contribution is being made, or was made, to a valid SGO and thus is a qualified contribution eligible for the section 25F credit.

Section 1.25F-5T(d)(9)(ii) provides for updating the IRS SGO list to include an organization whose tax-exempt status was pending when the State SGO list was submitted. Upon determining that the organization qualifies for tax-exempt status and that the effective date of such tax-exempt status is on or before January 1 of the calendar year for which the State SGO list applies, the IRS will add the organization to the IRS SGO list for that year as soon as the organization gives permission to be included on that list.

The publication of an IRS SGO list is consistent with feedback requesting that the IRS publish information to facilitate taxpayers' ability to determine which tax-exempt organizations are eligible to receive qualified contributions.

#### *E. State administrative requirements*

Stakeholders submitted a broad range of comments regarding the level of discretion the State should have in reviewing and certifying SGOs. Concerns were raised that States might seek to prioritize particular types of schools or students, or otherwise implement State education policies in a manner inconsistent with section 25F.

Section 1.25F-5T(e) provides guidance on State administrative requirements. Section 1.25F-5T(e)(1) provides that a State must require that SGOs meet all generally applicable State requirements for charitable organizations, including any State requirements that any organization must satisfy to be authorized to do business in the State and to solicit charitable contributions in the State. Additionally, States are required to impose certain application, documentation and financial reporting requirements that are reasonably tailored to support the State's determination that the organization

satisfies the operational requirements in section 25F(d), and to facilitate the prevention and detection of fraud or abuse, including the misuse of scholarship funds such as through the duplication of scholarship awards to the same student for the same qualified elementary or secondary education expense.

Section 1.25F-5T(e)(2) prohibits a State from requiring SGOs to operate in a manner that is more restrictive than the requirements set forth in section 25F(c)(5), such as by limiting the type of school that scholarship recipients may attend or the types of qualified elementary or secondary education expenses for which scholarship funds may be used. This prohibition is responsive to stakeholder feedback expressing concern that permitting States to impose additional requirements on SGOs or to exercise discretion to exclude an otherwise qualifying organization from the State SGO list could lead to arbitrary determinations and improper discrimination.

Section 1.25F-5T(e)(3) provides that the procedures a State implements in accordance with § 1.25F-5T(e) are subject to Federal review. Upon discovering a pattern of irregularities or noncompliance, the IRS, in its discretion, may require a State to modify its procedures to ensure that its determinations regarding an organization's location in the State, and its satisfaction of the operational requirements in section 25F(d) are being administered in accordance with the applicable statutory, regulatory, and appropriate State-level requirements.

Nothing in section 25F or these temporary regulations would alter States' obligations to comply with all other applicable Federal and State law, for example, the requirements under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et. seq.*

## **IV. Applicability Date**

These temporary regulations under §§ 1.25F-1T, 4T, and 5T apply on or after September 1, 2026, so that the Treasury Department and the IRS have procedural rules in place with which to develop the necessary implementation processes. See section 7805(b)(2). The temporary regulations expire on October 1, 2029.

## **Special Analyses**

### **I. Good Cause**

The Administrative Procedure Act (5 U.S.C. Subchapter II) provides that advance notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

The Treasury Department and the IRS find that good cause exists for making these temporary regulations immediately effective without notice and comment, including because failure to do so would be impracticable, contrary to the public interest, and against the intent of Congress.

Congress intended for the section 25F credit to be available for taxpayers making contributions beginning in taxable year 2027. Beginning on January 1, 2027, individual taxpayers will be able to make contributions to any eligible SGOs that have been certified by the States on whose SGO list they appear. The States’ election to participate and certification of SGOs are critical prerequisites to implementing the section 25F credit. As Congress expressly required in section 25F(g), States that voluntarily elect to participate under section 25F are required to annually submit a list of SGOs located in the State that meet the requirements described in section 25F(c)(5).

Additionally, to facilitate the proper administration of the section 25F credit, SGOs must be required and able to track contributions received that are designated as

qualified contributions that may give rise to credits to individual taxpayers as of January 1, 2027.

In order for the section 25F credit to operate as intended by Congress, taxpayers require certainty that a State has certified that an SGO satisfies the statutory requirements of section 25F prior to donating funds to organizations beginning on January 1, 2027. It is therefore important to immediately put into effect the necessary State certification procedures and recordkeeping requirements for SGOs.

The process of State certification of SGOs requires the State to ensure that each organization seeking to appear on its list of SGOs has met the criteria found in section 25F(c)(5). This certification process requires SGOs to submit certain documentation to support their assertion that they meet the statutory requirements. The State can only then review the submissions and, upon the State's certification that an organization meets the criteria set forth in section 25F(c)(5), include the organization on its list of SGOs for the following calendar year.

In addition, it is critical for SGOs to understand the necessary recordkeeping requirements for contributions to ensure that all section 25F credits claimed by taxpayers for a given taxable year correspond to verifiable qualified contributions. These requirements help maintain the integrity of the section 25F credit by preventing duplication and improper or excessive credits being claimed.

The Treasury Department and the IRS find that failure to make these temporary regulations effective prior to notice and comment would be contrary to the public interest. Without these temporary regulations, the IRS would be unable to ensure that States are able to adequately review applicant SGOs, complete their elections to participate under section 25F (or to perfect advance elections), and certify the SGOs that meet the statutory requirements before January 1, 2027. These temporary regulations must be issued promptly to allow enough time for organizations to submit

the required documentation to States participating under section 25F, and for States to determine whether each organization meets all of the statutory requirements for inclusion on the State SGO list.

Additionally, the SGO reporting requirements must be made effective through these temporary regulations so that each SGO may obtain instructions for creating unique donor numbers that will be used to validate qualified contributions to the SGO. Taxpayers may begin making qualified contributions on January 1, 2027. The first step in an SGO creating standardized unique donor numbers is an electronic registration process that is completed through the IRS SGO portal before January 1, 2027. Registration will allow SGOs to obtain instructions for creating unique donor numbers for donors in a uniform format to be used by all SGOs and to authorize disclosure of their identifying information, allowing the IRS to include SGOs that have provided such authorization on the IRS SGO list. Accordingly, these requirements must be implemented before the time qualified contributions begin to be made on January 1, 2027.

The public interest is served by the certainty that these temporary regulations will provide to taxpayers, SGOs, and States. The Treasury Department and the IRS expect that many new SGOs will be created, and these temporary regulations will provide those organizations certainty in their formation and operations and will reduce the costs of uncertainty that would result if final regulations are not issued prior to taxpayers making contributions that they expect will be eligible for the section 25F credit.

The Treasury Department and the IRS also find that good cause exists for making these temporary regulations immediately effective because it would be impracticable to comply with the notice and comment process in time to achieve the previously described results intended by Congress. The section 25F credit involves novel issues, including federalism aspects, that interact with established tax law in

complicated ways. This credit requires the creation of new IRS portals to interface both with SGOs and States, significant actions by States in identifying and certifying SGOs and ongoing administration with respect to SGOs, and IRS publication of the IRS SGO list, each of which must be developed before January 1, 2027. In addition, the IRS must establish systems to facilitate matching of reported qualified contributions against individual income tax returns. Each of these features presents unique tax administration challenges. In order to facilitate implementation of the section 25F credit, rules addressing the submission of State elections, SGO lists, and certifications and SGO registration and recordkeeping of contributions must be implemented by January 1, 2027.

The Treasury Department and the IRS understand the need to carefully consider all public comments and provide robust responses to all relevant comments. The limited time available between the publication of proposed regulations and the effective date of the section 25F credit, at which point State lists of SGOs must be certified and submitted and contributions may begin to be made, is insufficient to receive, review, and meaningfully respond to public comments. Since the enactment of the OBBBA, and especially since the release of Notice 2025-70, the Treasury Department and the IRS have been actively engaged with stakeholders and have been responsive to feedback, some of which has been incorporated in these temporary regulations. Furthermore, there would not be sufficient time after the receipt of public comments on proposed regulations to make any necessary changes to the applicable procedures or to the State and SGO portals in time for the January 1, 2027, effective date of the section 25F credit.

Comments are being solicited in the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**. Any comments will be considered before final regulations are issued.

## **II. Regulatory Planning and Review—Economic Analysis**

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

These temporary regulations, and the notice of proposed rulemaking (REG-117199-25) published elsewhere in this issue of the **Federal Register**, have been designated by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and OMB regarding review of tax regulations. OIRA has determined that these temporary regulations and the corresponding proposed rulemaking are economically significant and subject to review under section 3(f) of Executive Order 12866 and section 1(c) of the Memorandum of Agreement. Accordingly, these temporary regulations, and the proposed regulations contained in the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**, have been reviewed by OMB. Please refer to part I of the Special Analyses section of the notice of proposed rulemaking for the Regulatory Planning and Review discussion.

Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(a) of E.O. 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of E.O. 14192 requires that the "new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs" associated with prior regulations. A significant regulatory action (as defined in section 3(f) of E.O.

12866) that would impose total costs greater than zero is considered an E.O. 14192 regulatory action. This final rule is considered an E.O. 14192 regulatory action. Details on the estimated costs of this final rule can be found in the rule's economic analysis.

### **III. Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

The collections of information in these temporary regulations include reporting, third-party disclosure, and recordkeeping requirements for States and SGOs. Therefore, the likely respondents are State governments and tax-exempt organizations. The collection requirements are necessary to administer the section 25F credit for contributions to SGOs. The collections of information generally would be used by the States to be able to identify and certify SGOs in the State; by SGOs to provide information to donors on their qualified contributions to enable them to qualify for the credit; by SGOs to report information on those contributions to the IRS; and by the IRS to administer the credit to ensure that only qualified contributions give rise to the tax credit.

#### ***A. Collection requirements applicable to States***

The collections of information applicable to States can be grouped into three categories: (1) registering through the IRS State section 25F portal; (2) electing to

participate under section 25F, and (3) submitting the State SGO list, required certifications about the SGOs, and the State's policies for certifying SGOs.

### *1. State registration*

Section 1.25F-5T provides rules under section 25F(g) for a State's election to participate under section 25F and the State's identification and certification of organizations located in the State that are SGOs. Section 1.25F-5T(b) describes the IRS State section 25F portal used for the submission of State elections and State SGO lists.

Section 1.25F-5T(b)(1) requires a State that chooses to make an election to participate under section 25F to obtain a special-purpose EIN under the procedures in § 1.25F-5T(b)(3) and complete a registration process under the procedures in § 1.25F-5T(b)(4) on <https://www.irs.gov> to electronically transmit information through the IRS State section 25F portal.

A State will use the IRS State section 25F portal to submit the State election and State SGO list and required certifications and information. To complete its registration, § 1.25F-5T(b)(4) requires a State to provide the special-purpose EIN, contact information for the State, and any other information the IRS deems necessary for purposes of administering the requirements of section 25F. The State registration and the requirement to obtain a special-purpose EIN will be approved by OMB under control number 1545-2335, pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

### *2. State election to participate*

Section 1.25F-5T(c) provides rules for State elections. As part of providing an election and the State SGO list, the State must provide certain certifications and other required information as described in § 1.25F-5T(c)(5), which includes the information and certifications required by § 1.25F-5T(d)(2) through (5) for each organization on the

State SGO list and a certification that the State SGO list includes every organization located in the State that is described in section 25F(c)(5)(A) and (B), is seeking inclusion on the State SGO list, and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements described in § 1.25F-5T(e)(1). The State election will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13 and its associated burden will be reflected in Tables 1 and 2 of this section.

### *3. State submission of State SGO list and required certification*

The collection of information in § 1.25F-5T includes recordkeeping requirements related to the section 25F credit. A State will use these records to submit its State SGO list and the required certifications and other information. These recordkeeping requirements are considered general tax records under § 1.6001-1(e). For PRA purposes, general tax records and their associated burdens are already approved by OMB under control number 1545-0047 for tax-exempt organizations and governmental entities.

Section 1.25F-5T(d)(1) requires a State to provide its State SGO list and include the information and certifications required under § 1.25F-5T(d)(2) and (3) as part of its State election. Section 1.25F-5T(d)(6) requires a State to provide a certification regarding its policies and procedures for determining whether an organization is an SGO. Section 1.25F-5T(d)(7)(iii)(B) provides rules for a State's removal of an SGO from the State SGO list. Section 1.25F-5T(e) provides general guidance regarding the policies and procedures States adopt for SGOs and Federal review of such policies and procedures. The submission of the State SGO list and required certification will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13 and its associated burden will be reflected in Tables 1 and 2 of this section.

## *B. Collection requirements applicable to SGOs*

The collections of information in these temporary regulations applicable to SGOs can be grouped into two categories: (1) registering through the IRS SGO portal and (2) providing the donor with a written acknowledgement of the qualified contribution as well as reporting information related to those contributions to the IRS.

### *1. SGO registration*

SGOs will need to report information related to qualified contributions made by the donor to the SGO during the calendar year through the IRS SGO portal, described in § 1.25F-1T(a)(8), in accordance with the instructions provided therein. As such, SGOs will need to register through the IRS SGO portal and provide the information required to complete the registration process.

Section 1.25F-4T(b) provides rules regarding the mandatory registration through the IRS SGO portal that an organization must complete. An organization needs to complete the registration process electronically through the IRS SGO portal and in accordance with the instructions provided therein, providing the information in § 1.25F-4T(b)(3). This includes the organization's general information, a point of contact, the organization's tax year, and any other information required in guidance. As part of the registration process, SGOs may authorize the IRS to disclose their information for inclusion on the IRS SGO list, as described in § 1.25F-4T(b)(1). The SGO registration will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

### *2. Collections of information by SGOs related to contributions*

Section 1.25F-4T(c) provides rules on the reporting, recordkeeping, and third-party disclosure requirements of qualified contributions made by the donor to the SGO during the calendar year.

The collections of information in § 1.25F-4T(c) include recordkeeping requirements related to the section 25F credit. An SGO will use these records to enable it to provide the donor with a timely written acknowledgement of a contribution and to report to the IRS the necessary information about qualified contributions made by the donor to the SGO during the calendar year. These recordkeeping requirements are considered general tax records under § 1.6001-1(e). For PRA purposes, general tax records and their associated burdens are already approved by OMB under control number 1545-0047 for tax-exempt organizations.

Section 1.25F-4T(c)(1)(i) provides that an SGO must provide a timely written acknowledgement to each donor with respect to qualified contributions made by the donor to the SGO during the calendar year. The timely written acknowledgement must include the total amount of contributions made by the donor, the unique donor number the SGO created for the donor (pursuant to § 1.25F-4T(b)(4)), and a statement as to whether or not the SGO provided any goods or services in consideration, in whole or in part, for any qualified contributions made by the donor and if so, a description and good faith estimate of the value of any goods or services. The SGO can provide timely written acknowledgement in writing, or in any other form acceptable to the donor, including by electronic delivery. The timely written acknowledgement must be provided no later than January 31 of the calendar year following the calendar year in which a donor made a qualified contribution to the SGO. The timely written acknowledgement will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

Section 1.25F-4T(c)(2) requires an SGO to annually report to the IRS, no later than February 28 of the year following the year in which qualified contributions were made, information with respect to each unique donor number assigned by the SGO,

including the donor's name and address, the aggregate amount of qualified contributions made by the donor to the SGO during the calendar year, and any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance. The SGO will need to report the information to the IRS through the IRS SGO portal in accordance with the instructions provided therein. This information is necessary to allow the IRS to validate donor information collected by SGOs against filed tax returns claiming the section 25F credit. Availability of this information through the portal may facilitate earlier identification and resolution of discrepancies between filed returns and SGO data, allowing for timelier resolution of any disparities and limiting duplication, fraud, or abuse in the operation of the credit. This annual reporting will be approved by OMB under control number 1545-2335 pursuant to the emergency procedures in 5 CFR 1320.13, and its associated burden will be reflected in Tables 1 and 2 of this section.

| Table 1: Affected Entities                |                                 |                                  |                           |                                  |                                     |
|-------------------------------------------|---------------------------------|----------------------------------|---------------------------|----------------------------------|-------------------------------------|
| ENTITY TYPE                               |                                 |                                  | NUMBER OF ENTITIES        |                                  |                                     |
| States and District of Columbia           |                                 |                                  | 51                        |                                  |                                     |
| Scholarship Granting Organizations (SGOs) |                                 |                                  | 600 to 700                |                                  |                                     |
| Individual Contributors                   |                                 |                                  | 11 million                |                                  |                                     |
| Table 2: Estimated Burden                 |                                 |                                  |                           |                                  |                                     |
| STATE COLLECTIONS                         |                                 |                                  |                           |                                  |                                     |
| Collection                                | Estimated Number of Respondents | Estimated frequency of responses | Estimated Total Responses | Estimated Burden Per Response    | Estimated Total Annual Burden Hours |
| Registration<br>§ 1.25F-5T(b)             | 51                              | Once<br>(1)                      | 51                        | 1 hour 2 minutes<br>(1.03 hours) | 53 hours                            |
| Election<br>§ 1.25F-5T(c)(1) - (4)        | 51                              | Annually<br>(1)                  | 51                        | 17 minutes<br>(0.29 hours)       | 15 hours                            |

|                                                                                                                                                                      |    |                                 |     |                                   |             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|---------------------------------|-----|-----------------------------------|-------------|
| <b>State compiling and submitting the SGO list § 1.25F-5T(d) certifications and information regarding SGOs on State SGO list required by § 1.25F-5(d)(2) and (3)</b> | 51 | Annually <sup>3</sup><br>(13)   | 650 | 10 hours                          | 6,500 hours |
| <b>State certifications – certifications and information required by § 1.25F-5T(c)(5) &amp; (d)(6) (policies and procedures)</b>                                     | 51 | Annually<br>(1)                 | 51  | 1 hour 43 minutes<br>(1.71 hours) | 87 hours    |
| <b>State removal of SGO (reporting changes as needed or required) § 1.25F-5T(d)(7)(iii)</b>                                                                          | 8  | On Occasion <sup>4</sup><br>(7) | 56  | 30 minutes                        | 28 hours    |

#### SGO COLLECTIONS

| <b>Collection</b>                                                                                               | <b>Estimated Number of Respondents</b> | <b>Estimated frequency of responses</b> | <b>Estimated Total Responses</b> | <b>Estimated Burden Per Response</b> | <b>Estimated Total Annual Burden Hours</b> |
|-----------------------------------------------------------------------------------------------------------------|----------------------------------------|-----------------------------------------|----------------------------------|--------------------------------------|--------------------------------------------|
| <b>Registration § 1.25F-4T(b)</b>                                                                               | 650                                    | Once<br>(1)                             | 650                              | 1 hour 20 minutes<br>(1.33 hours)    | 865 hours                                  |
| <b>Contribution Related Collection - Drafting Template for Acknowledgement and unique ID generation process</b> | 650                                    | Once<br>(1)                             | 650                              | 2 hours <sup>5</sup>                 | 1,300 hours                                |

<sup>3</sup> States will consider, approve, submit and certify to multiple SGOs (650). (650 total SGOs divided by 51 States = approximately 13 SGOs per State).

<sup>4</sup> As States submit new SGO lists every year, the list for the next year can show changes from the prior year. If, however, an SGO needs to be removed from the State SGO list during the current year, the State must report that removal to the IRS. The IRS anticipates that few States will be required, or choose, to report changes throughout the year. Therefore, the IRS estimates only 15% of the States (8) will do this for approximately 1% of the total SGO population (7).

<sup>5</sup> The IRS anticipates that SGOs already have procedures in place to generate acknowledgements to donors for other purposes, but the IRS anticipates SGOs will need some time to create a process for generating and tracking the unique donor number and including that number in the acknowledgement. IRS anticipates this will be a one-time startup burden on SGOs.

|                                                                                                                                    |     |                                   |            |               |                    |
|------------------------------------------------------------------------------------------------------------------------------------|-----|-----------------------------------|------------|---------------|--------------------|
| § 1.25F-4T(c)(1)                                                                                                                   |     |                                   |            |               |                    |
| <b>Contribution<br/>Related Collection</b><br>- SGO giving contributors a written acknowledgement <sup>6</sup><br>§ 1.25F-4T(c)(1) | 650 | Annually <sup>7</sup><br>(16,923) | 11,000,000 | 15<br>minutes | 2,750,000<br>hours |
| <b>Contribution<br/>Related Collection</b><br>(Annual Report to IRS of Contributor Information)<br>§ 1.25F-4T(c)(2)                | 650 | Annually<br>(16,923)              | 11,000,000 | 30<br>minutes | 5,500,000<br>hours |

#### IV. Regulatory Flexibility Act

For applicability of the Regulatory Flexibility Act, please refer to the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**.

#### V. Section 7805(f)

Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on their impact on small business.

#### VI. Unfunded Mandates Reform Act

Section 202 (2 U.S.C. 1532(a)) of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for

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<sup>6</sup> The IRS anticipates that most acknowledgements will be issued electronically to contributors and less than 1% may be issued as a paper version. The burden to issue the acknowledgement could take less than 1 minute to send electronically and up to 30 minutes to issue a paper version. Therefore, the IRS estimates it could take 15 minutes to issue an acknowledgement.

<sup>7</sup> SGOs will give information to multiple contributors each year (11 million total contributors divided by 650 SGOs = approximately 16,923 contributors per SGO per year).

inflation. The Treasury Department and the IRS have concluded that these temporary regulations, and the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**, do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector, in excess of that threshold.

A “Federal intergovernmental mandate” is defined in 2 U.S.C. 658(5)(A), in part, as any provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, except for a duty arising from participation in a voluntary Federal program. Among other things, “federal tax policies that preempt specific state and local tax policies, and administrative rules issued by federal agencies cannot be avoided, [therefore] they are enforceable duties and are covered under UMRA.” Adam G. Levin, *Unfunded Mandates Reform Act: History, Impact, and Issues* (CRS Report No: R40957) (2021) <https://www.congress.gov/crs-product/R40957>.

Section 1.25F-5T provides rules for the State’s submission of its election to participate under section 25F and the State SGO list; rules regarding the information and certifications a State is required to provide for each organization included on the State SGO list; requirements that States must use in determining whether organizations meet the requirements of section 25F(c)(5); procedures for notifying the IRS of any determination by the State that an organization on the State SGO list is being removed from such list for not satisfying each of the requirements of section 25F(c)(5); and procedures regarding State requirements for SGOs.

These rules do not create a Federal intergovernmental mandate as defined in Title 2 of the United States Code. First, the rules do not impose an “enforceable duty” on the States. These rules do not preempt any State tax policies. Rather, for States that provide a State tax credit for donations to scholarship granting entities, these rules act

in concert with State laws in this area and do not replace them. Second, even if these rules imposed an “enforceable duty,” that duty arises from a State’s voluntary participation in a Federal tax credit. Section 25F(g)(1)(A) provides that a State voluntarily elects to participate under section 25F. If a State does not want to participate, it is not required to do so.

A “Federal private sector mandate” is defined in 2 U.S.C. 658(7)(A), in part, as any provision in legislation, statute, or regulation that would impose an enforceable duty upon the private sector, except for a duty arising from participation in a voluntary Federal program. 2 U.S.C. 658(9) provides that the term “private sector” means “all persons or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include State, local, or tribal governments.”

Section 1.25F-4T(b) provides rules for the mandatory registration process through the IRS SGO portal that each SGO must complete. Section 1.25F-4T(c) provides the requirements for acknowledgement, recordkeeping, and reporting of qualified contributions received by the SGO.

These rules do not create a Federal private sector mandate as defined in title 2, United States Code. First, the rules do not impose an “enforceable duty” on any member of the private sector. These rules do not include direct statutory orders, a total or partial preemption, or administrative rules issued by Federal agencies that cannot be avoided. Instead, they fall squarely in the exception for a duty arising from voluntary participation in a Federal tax credit. Tax-exempt organizations are not required to be SGOs, but to the extent that an organization wants to be an SGO, the organization would then be subject to the rules in these regulations. Likewise, an individual taxpayer is not required to claim a credit under section 25F, but to the extent that a taxpayer wants to claim a credit, the taxpayer would need to follow the rules provided in the

proposed regulations.

If these rules were to create a Federal mandate, based on OIRA's determination that these temporary regulations and the corresponding proposed rulemaking are economically significant and subject to review under section 3(f) of Executive Order 12866, the UMRA would require the Treasury Department and the IRS to assess anticipated costs and benefits and take certain other actions before issuing a final rule. For a discussion of such an assessment and analysis, see the discussion of the Regulatory Flexibility Act and E.O. 12866 in the Special Analyses section of the notice of proposed rulemaking (REG-117199-25) published in the Proposed Rules section of this issue of the **Federal Register**.

## **VII. Executive Order 13132: Federalism**

Executive order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The Treasury Department and the IRS conclude that these temporary regulations do not have federalism implications, do not impose substantial direct compliance costs on State and local governments, and do not preempt State law within the meaning of the Executive order.

Section 1(a) of Executive Order 13132 provides that, for purposes of the order, "Policies that have federalism implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." As such, Executive Order 13132 prohibits an agency from publishing a rule if the rule either imposes substantial, direct compliance costs on State and local

governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The Tenth Amendment to the United States Constitution provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Section 1.25F-5T of these temporary regulations makes States responsible for ensuring SGOs on their SGO list have complied with the requirements of section 25F, but only if a State “voluntarily elects to participate under” section 25F. These temporary regulations do not violate the Executive Order or the Tenth Amendment because States will only need to comply with the guidance if they voluntarily elect to participate under section 25F.

The temporary regulations would not coerce State governments into administering Federal law in violation of the Executive Order or the Tenth Amendment because States do not lose any funding or face any other negative consequences if they decline to participate under section 25F. A State that does not want to ensure that organizations have complied with reporting requirements can decline to submit an annual list of SGOs under section 25F(g)(1)(A). If a State does not submit a list of SGOs, it does not need to comply with any guidance related to section 25F.

In addition, section 25F and these temporary regulations would not insulate the Federal or State governments from political accountability, which indicates that the section and guidance would be permissible under the Tenth Amendment. If residents want their State to submit a list of SGOs (and to take on the resulting administrative responsibilities), they can lobby their State government to do so. The same is true for residents who do not want their State to participate under the section. Thus, rather than invading the domain of State authority, section 25F enables States to determine whether to implement a Federal policy. Any State that does not want to participate in section 25F can decline to submit a list of SGOs, which would prevent taxpayers from

claiming credits based on contributions to organizations within the State that would otherwise be SGOs.

Further, these temporary regulations do not impose substantial direct compliance costs on State and local governments. While States will incur some costs in complying with the requirements of these temporary regulations, those costs will not be substantial. See the discussion of the Regulatory Flexibility Act and Executive Order 12866 elsewhere in this Special Analyses section.

### **VIII. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as a major rule as defined by 5 U.S.C. 804(2).

### **Drafting Information**

The principal authors of these regulations are Nicole Cammarota of the Office of Division Counsel (Litigation & Advisory), Constance Chien of the Office of Associate Chief Counsel (Income Tax & Accounting), and Andrew Fahmy of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

### **Adoption of Amendments to the Regulations**

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as follows:

### **PART 1--INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 is amended by adding the following entries for §§ 1.25F-1T, 1.25F-4T, and 1.25F-5T in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

\* \* \* \* \*

Section 1.25F-1T also issued under 26 U.S.C. 25F(h).

Section 1.25F-4T also issued under 26 U.S.C. 25F(h).

Section 1.25F-5T also issued under 26 U.S.C. 25F(h).

\* \* \* \* \*

**Par. 2.** Section 1.25F-1T is added to read as follows:

**§ 1.25F-1T Definitions (temporary).**

(a) *In general.* The definitions of terms in this paragraph (a) apply for purposes of section 25F and the section 25F regulations (that is, this section and §§ 1.25F-4T and 1.25F-5T).

(1) *Advance election.* The term *advance election* means a State's submission described in § 1.25F-5T(c)(3).

(2) *Covered State.* The term *covered State* means a State that makes a State election, in accordance with § 1.25F-5T(c), to participate under section 25F for a particular calendar year.

(3) – (5) [Reserved]

(6) *Guidance.* The term *guidance* means guidance published in the **Federal Register** or Internal Revenue Bulletin (see §§ 601.601(d)(2) and 601.602 of this chapter) or, as appropriate, in forms, instructions, and publications available on <https://www.irs.gov> and through the IRS SGO portal or IRS State section 25F portal, as applicable.

(7) *IRS SGO list.* The term *IRS SGO list* means the aggregated list of SGOs included on one or more State SGO lists that the IRS maintains and publishes on <https://www.irs.gov> in accordance with § 1.25F-5T(d)(9).

(8) *IRS SGO portal.* The term *IRS SGO portal* consists of the module(s) on

<https://www.irs.gov> that an SGO is required by § 1.25F-4T(b) to use, in accordance with the instructions provided therein, to electronically obtain instructions for creating a unique donor number in a uniform format to be used by all SGOs, authorize disclosure of its name and identifying information on the IRS SGO list, and report specified information.

(9) *IRS State section 25F portal*. The term *IRS State section 25F portal* consists of the module(s) on <https://www.irs.gov> that a State is required by § 1.25F-5T(b) to use, in accordance with guidance, to electronically transmit its State election (or advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required in guidance.

(10) *Located in a State*. An organization is *located in a State* if the organization is authorized to do business in the State and is in compliance with the generally applicable State laws and requirements for charitable organizations in the State, including provisions for transparency, accountability, and fraud prevention. *But see* § 1.25F-5T(e)(2) (prohibiting covered States from imposing requirements on SGOs that are more restrictive than the requirements in section 25F(c)(5)).

(11) *Multistate SGO*. The term *multistate SGO* means an SGO that is included on the State SGO list of more than one covered State.

(12) *Qualified contribution*—(i) *In general*. The term *qualified contribution* means a charitable contribution of cash made by an individual to an SGO to the extent that the donor designates to the recipient SGO, at the time of making the contribution, that the contribution is intended to be a qualified contribution for purposes of section 25F. Such designation, once made, is irrevocable.

(ii) *Goods or services received as consideration for the contribution*. If the SGO provides any goods or services as consideration for any part of the contribution, then the value of those goods and services must be subtracted from the amount of the

charitable contribution to arrive at the amount of the qualified contribution.

(iii) *Cash*. For purposes of paragraph (a)(12)(i) of this section, the term *cash*—

(A) Means physical currency, check, money order, electronic transfer, after-tax payroll deduction, or other similar method, in each case all in U.S. dollars, and

(B) Does not mean any digital asset.

(13) – (15) [Reserved]

(16) *Scholarship granting organization (SGO)*. The term *SGO* is defined in section 25F(c)(5).

(17) [Reserved]

(18) *Section 25F segregated account*. The term *section 25F segregated account* means the separate account exclusively for qualified contributions and the earnings therefrom that the SGO must maintain pursuant to section 25F(c)(5)(B).

(19) [Reserved]

(20) *Single-State SGO*. The term *single-State SGO* means an organization included on the State SGO list of only one covered State.

(21) *State*. References to *State* include each of the 50 States and the District of Columbia.

(22) [Reserved]

(23) *State election*. The term *State election* means a State election to participate under section 25F for a particular calendar year that is made in accordance with the procedures set forth in § 1.25F-5T(b) and (c).

(24) *State SGO list*. The term *State SGO list* means the list of all SGOs located in the State that the covered State submits to the IRS for a particular calendar year in accordance with § 1.25F-5T(d) (and that may be changed during such calendar year in accordance with § 1.25F-5T(d)(7)).

(25) *Timely written acknowledgement*. The term *timely written acknowledgement*

means the written acknowledgement an SGO must provide to donors with respect to qualified contributions made during the calendar year in accordance with § 1.25F-4T(c)(1).

(26) [Reserved]

(b) *Applicability date*—(1) *In general*. This section applies on or after September 1, 2026. The applicability of this section expires on or before October 1, 2029.

(2) [Reserved]

**Par. 3.** Sections 1.25F-4T and 1.25F-5T are added to read as follows:

**§1.25F-4T Reporting and recordkeeping requirements for SGOs (temporary).**

(a) [Reserved]

(b) *Mandatory registration through IRS SGO portal*—(1) *In general*. Except to the extent otherwise provided in guidance, an organization that plans to solicit qualified contributions must electronically register through the IRS SGO portal in accordance with the instructions provided therein. Registration through the IRS SGO portal will allow the organization to obtain instructions for creating a unique donor number in a uniform format to be used by all SGOs, authorize disclosure of its name and identifying information on the IRS SGO list, and report qualified contribution information. An organization must authorize disclosure in accordance with section 6103(c) of its name and identifying information on the IRS SGO list for a calendar year if the organization wants the IRS to publish such information on the IRS SGO list for that year.

(2) *Time for registration through IRS SGO portal*. An organization must register with the IRS as soon as possible and preferably before the organization appears on any State SGO list. Until the organization has registered in the IRS SGO portal, the organization will not be able to comply with the acknowledgement and reporting requirements in paragraph (c) of this section, and that compliance is a necessary part of substantiating that a donor's qualified contribution is eligible for the credit allowed under

section 25F.

(3) *Information required to complete registration.* An organization must provide the following information to the IRS to register in the IRS SGO portal:

(i) The organization's name, IRS employer identification number (EIN), address, telephone number, and year of formation;

(ii) The name of a person whom the IRS may contact if there is an issue with the registration, and who either possesses legal authority to bind the organization or provides a properly executed power of attorney on Form 2848, *Power of Attorney and Declaration of Representative*;

(iii) The organization's taxable year; and

(iv) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as provided in guidance.

(4) *Donor number.* The IRS will review the registration submission to verify that all the required information has been submitted and will provide the organization with instructions for creating a unique donor number for each donor who has designated at least one payment to the organization as a qualified contribution to the SGO during the calendar year.

(c) *Acknowledgement and reporting of qualified contributions received by SGOs—(1) Reporting to donor—(i) In general.* An organization must provide a timely written acknowledgement to each donor that includes the following information:

(A) The organization's EIN;

(B) The total amount of contributions made by the donor to the organization during the calendar year that the donor designated as qualified contributions;

(C) The unique donor number the organization created for the donor in accordance with paragraph (b)(4) of this section;

(D) A statement as to whether or not the organization provided any goods or

services in consideration, in whole or in part, for any qualified contributions made by the donor to the SGO during the calendar year; and

(E) A description and good faith estimate of the value of any goods or services described in paragraph (c)(1)(i)(D) of this section, if any.

(ii) *Time and manner of providing timely written acknowledgement.* An organization must provide the timely written acknowledgement no later than January 31 of the calendar year following the calendar year in which a donor made a qualified contribution to the organization. The timely written acknowledgement can be provided in writing or in any other form acceptable to the donor, including by electronic delivery if the donor consents to receive the statement electronically and does not withdraw the consent before the statement is furnished.

(2) *Reporting qualified contributions to the IRS—(i) In general.* An organization must annually report to the IRS the following information with respect to each unique donor number assigned by the organization as set forth in paragraph (b)(4) of this section:

(A) The donor's name;

(B) The donor's address;

(C) The aggregate amount of qualified contributions made by the donor to the organization during the calendar year; and

(D) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(ii) *Time and manner of reporting.* An organization must report the information described in paragraph (c)(2)(i) of this section no later than February 28 of the year following the year in which such qualified contributions were made. Unless otherwise provided in guidance, the reporting must be done through the IRS SGO portal in accordance with the instructions provided therein.

(d) and (e) [Reserved]

(f) *Applicability date*—(1) *In general*. This section applies on or after September 1, 2026. The applicability of this section expires on or before October 1, 2029.

(2) [Reserved]

**§1.25F-5T State election, State SGO list, and certification of SGOs (temporary).**

(a) *Overview*. This section provides rules under section 25F(g) for a State election and participation under section 25F. Paragraph (b) of this section describes the IRS State section 25F portal used for the submission of State elections and State SGO lists and the reporting of any changes to State SGO lists and other required information. Paragraph (c) of this section provides rules for the State election, including an advance election, and the provision of the State SGO list. Paragraph (d) of this section provides rules regarding State SGO lists. Paragraph (e) of this section provides general guidance regarding Federal review of the policies and procedures States adopt for SGOs.

(b) *IRS State section 25F portal*—(1) *In general*. A State that chooses to participate under section 25F must register in the IRS State section 25F portal in accordance with the instructions therein. Registration requires obtaining or being assigned a special-purpose employer identification number (EIN) in accordance with paragraph (b)(3) of this section and then providing the information required by paragraph (b)(4) of this section. At the conclusion of the registration process, a State will be able to electronically transmit through the IRS State section 25F portal its State election (including an advance election), State SGO list, any changes to the State SGO list, annual certifications, and any other information required by future guidance.

(2) *Delegation*—(i) *In general*. The Governor of the State or such other individual, agency, or entity as is designated under State law to make elections with respect to Federal tax benefits on behalf of the State may authorize up to two designated officials, as described in paragraph (b)(2)(ii) of this section, to register for and use the IRS State

section 25F portal. The State must provide any information and documentation necessary, in accordance with future guidance, to establish an individual's authority to use the IRS State section 25F portal on behalf of the State.

(ii) *Designated officials.* A designated official for purposes of the delegation described in paragraph (b)(2)(i) of this section must be one of the following individuals:

- (A) An elected official;
- (B) The Director of Taxation; or
- (C) An appointed official.

(3) *Special purpose EIN.* Before a State may begin the registration process for the IRS State section 25F portal, the State must obtain or be assigned a special-purpose EIN, to be used only for purposes of section 25F, in accordance with applicable IRS guidance. The State may not obtain its own special-purpose EIN using the general guidance for obtaining an EIN set forth in § 301.6109-1(d)(2)(i) of this chapter. The special-purpose EIN cannot be used for any other purpose under the Code.

(4) *Information required to complete registration.* A State must provide the following information to complete the registration process for the IRS State section 25F portal:

- (i) The State's special-purpose EIN obtained or assigned in accordance with paragraph (b)(3) of this section;
- (ii) Contact information, including the name, official title, telephone number, and email address of each of the State's designated officials (if any) authorized as provided in paragraph (b)(2) of this section; and
- (iii) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(c) *State election*—(1) *In general.* Except as provided in paragraph (c)(3)(i)(B) of this section (providing a special rule for the first year a State makes an election), a State

election may be made either as an advance election that is perfected, as described in paragraph (c)(3) of this section, or as an election made as part of the submission of the State SGO list, as described in paragraph (c)(4) of this section. The State election is made only for a single calendar year, and all the requirements in this paragraph (c) must be satisfied for each year for which an election is made.

(2) *Authority to make a State's election.* A State election, including an advance election, must be made either by the Governor of the State (or the Mayor of the District of Columbia) or by such other individual, agency, or entity as is designated under State law to make such elections with respect to Federal tax benefits on behalf of the State.

(3) *Advance election*—(i) *Submission of advance election*—(A) *In general.* Except as provided in the transition rule in paragraph (c)(3)(i)(B) of this section (or as otherwise provided in guidance), a State may submit an advance election through the IRS State section 25F portal on or after January 2 and on or before September 30 of the calendar year immediately preceding the calendar year for which the election is being made. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

(B) *Transition rule for the first calendar year for which the State makes an election*—(1) *Calendar year 2027.* For calendar year 2027 only, a State must submit an advance election on Form 15714, *Advance Election to Participate Under Section 25F for 2027*, on or before January 1, 2027. The IRS will acknowledge or otherwise confirm receipt of a State's advance election.

(2) *Future years.* For calendar years after 2027, a State making its first election to participate under section 25F must submit an advance election as provided in future guidance.

(ii) *Perfection of advance election*—(A) *In general.* If a State has submitted an advance election in accordance with paragraph (c)(3)(i) of this section, the State must

perfect its election by providing its State SGO list for a calendar year, with the information and certifications required in paragraph (c)(5) of this section, on or before January 1 of that year, but not earlier than October 1 of the immediately preceding calendar year.

(B) *Transition rule for the first calendar year for which section 25F applies.* For calendar year 2027 only, a State may provide its State SGO list on or before February 15, 2027.

(C) *Failure to perfect.* Because a State that makes an advance election is required by section 25F(g) to provide its State SGO list as part of its State election, a failure to perfect its advance election within the time period set forth in this paragraph (c)(3)(ii) would result in a failure to meet the requirements of section 25F(g). Accordingly, no organization in that State would qualify as an SGO for the calendar year for which the advance election was not perfected.

(iii) *IRS advance election list.* The IRS will maintain and publish on <https://www.irs.gov> a list of States that have made an advance election.

(4) *Election with submission of the State SGO list.* Except for the first year for which the State makes its election (see paragraph (c)(3)(i)(B) of this section), a State may make its State election for a calendar year when the State submits its State SGO list for that year by providing its State election and State SGO list for that calendar year, with the information and certifications required in paragraph (c)(5) of this section, on or before January 1 of that year, but not earlier than October 1 of the immediately preceding calendar year..

(5) *Certifications and other required information.* As part of providing a State election and the State SGO list under this paragraph (c), the person with authority to make the State election, as described in paragraph (c)(2) of this section, or a designated official, as described in paragraph (b)(2) of this section, must, in accordance

with future guidance:

(i) Certify that the individual, agency, or entity making the State election has the authority to make the State election on behalf of the State;

(ii) Certify that the person authorizing any individuals as designated officials under paragraph (b)(2) of this section has the authority to do so;

(iii) Provide the enacted statutory or regulatory provisions that are binding on the State and establish the authority of an individual to make the election on behalf of the State, if the individual making the election is not the Governor of the State (or the Mayor of the District of Columbia);

(iv) Provide the information and certifications required by paragraphs (d)(2) and (3) of this section for each SGO on the State SGO list;

(v) Certify that the State SGO list includes every organization located in the State that is described in section 25F(c)(5)(A) and (B), is seeking inclusion on the State SGO list, and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements described in paragraph (e)(1) of this section;

(vi) Provide the certification of State procedures as required by paragraph (d)(6) of this section;

(vii) Describe any tax credit (including relevant State statutes, regulations, and other authoritative guidance) available under State law for contributions made to SGOs during the calendar year for which the State is electing to participate under section 25F; and

(viii) Provide any other information and certifications described in future guidance.

(d) *State SGO lists*—(1) *In general*. Except to the extent otherwise provided in future guidance, a State must provide its State SGO list and include the information and

certifications required under paragraphs (d)(2) and (3) of this section as part of its State election. Paragraph (d)(4) of this section provides a transition rule for an organization that has not yet been required to provide information and certifications to the IRS. Paragraph (d)(5) of this section provides a procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS. Paragraph (d)(6) of this section requires a State to provide a certification regarding its policies and procedures for determining whether an organization is included on the State SGO list. Paragraph (d)(7) of this section provides rules for changes to a State SGO list, and paragraph (d)(8) of this section provides rules for the removal of an SGO from the IRS SGO list. Paragraph (d)(9) of this section provides for the publication of the names of covered States and their State SGO lists on <https://www.irs.gov>.

(2) *Required SGO information.* For each organization named on the State SGO list, a State must provide:

- (i) The name, EIN, address, and telephone number of the organization;
- (ii) The Federal tax-exempt status of the organization, meaning that the organization either is currently described in section 501(c)(3), exempt from tax under section 501(a), and not a private foundation as defined in section 509(a), or, if paragraph (d)(5) of this section applies, that the organization's application for recognition of tax-exempt status is pending with the IRS; and
- (iii) Any other information the IRS deems necessary for purposes of administering the requirements of section 25F as may be described in future guidance.

(3) *Required SGO certifications.* Except as provided for the transition rule in paragraph (d)(4) of this section, for each organization named on the State SGO list, the State must certify that:

- (i) The organization is located in the State;
- (ii) The organization prevents the co-mingling of qualified contributions with other

amounts by maintaining a section 25F segregated account, which must contain only qualified contributions and the earnings therefrom, depositing all qualified contributions into its section 25F segregated account and maintaining a complete set of books and records for its section 25F segregated account;

(iii) The organization meets all the operational requirements described in section 25F(d);

(iv) As part of the State's determination that an organization is or will be an SGO, the State has:

(A) Determined whether the organization is or will be a single-State SGO or a multistate SGO;

(B) Reviewed the annual financial and programmatic audit report the organization is required to provide to the State in accordance with guidance;

(C) Reviewed the annual certifications and other information the organization is required to provide to the IRS; and

(D) Investigated any failure by the SGO to provide the required certifications and other information, and, with respect to any such failure, has become reasonably satisfied that the SGO has corrected the failure, if possible, or has put in place procedures to prevent future failures in a manner that satisfies the State that the SGO will satisfy the requirements to be an SGO located in the State; and

(v) The organization satisfies any other requirements the IRS deems necessary for purposes of administering section 25F as may be described in future guidance.

(4) *Transition rule for an organization that has not yet been required to provide information and certifications to the IRS.* Until an organization first provides information establishing its satisfaction of the operational requirements of section 25F(d) in accordance with guidance, a State may rely, in determining whether the organization may be treated as an SGO, on the organization's governing documents or bylaws,

written policies and procedures, and other documentation the organization provides to the State as part of its submission requesting inclusion on the State SGO list. However, for each year during this transition period for which the organization is listed as an SGO on the State SGO list, the State must:

- (i) Determine that the SGO satisfies all requirements of section 25F(c)(5)(A) and (B);

- (ii) Determine that the SGO's provisions, policies, and procedures expressly require (beyond a general requirement to comply with applicable law) the SGO to satisfy the operational requirements for an SGO in section 25F(d);

- (iii) Determine that the documentation and information available to the State evidences the SGO's ability and intent to satisfy the operational requirements in section 25F(d); and

- (iv) Require the SGO to concurrently provide the State with a copy of any information and certifications required to be provided to the IRS before the end of the transition period in accordance with guidance.

(5) *Procedure that applies when an organization's application for recognition of tax-exempt status is pending with the IRS.* A State SGO list may include organizations whose applications for recognition of tax-exempt status are pending with the IRS as of the date of submission of the State SGO list if the State includes on its State SGO list all organizations seeking inclusion on the State SGO list whose application for recognition of tax-exempt status is then pending with the IRS, provides the information and certifications required under paragraphs (d)(2) and (3) of this section for each such organization, and certifies, for each such organization, that:

- (i) The organization has applied for, but has not yet received, IRS recognition of its status as an organization described in section 501(c)(3);

- (ii) The organization's tax-exempt status, if granted, will be effective retroactively

to a date that is on or before January 1 of the year for which the State SGO list applies;

(iii) The State SGO list indicates that such organization's tax-exempt status is pending IRS recognition; and

(iv) The State has complied with the requirements of paragraph (d)(4) of this section for each such organization.

(6) *Certification of State policies and procedures.* A State must certify that its policies and procedures, including its procedures for assessing and responding to audit results:

(i) Enable the State to make its own determination that each organization on the State SGO list is located in the State, is in compliance with the requirements of section 25F(c)(5)(A) and (B), and is operating in a manner that satisfies the operational requirements in section 25F(d) and the applicable State requirements described in paragraph (e)(1) of this section;

(ii) Provide for the prompt removal of an organization from the State SGO list, and notification to the IRS through the IRS State section 25F portal, upon a determination that the organization does not satisfy each of the required criteria referenced in paragraph (d)(6)(i) of this section;

(iii) Require that any publicly available list of SGOs maintained by the State is identical to the most recently submitted State SGO list and includes the IRS SGO list's URL (Uniform Resource Locator); and

(iv) Ensure that the State's procedures before and after the removal of an organization from the State SGO list are fairly administered and afford due process in accordance with applicable Federal and State laws.

(7) *Changes to State SGO list—(i) Changes before the deadline for the elected calendar year.* A State may replace or supplement its State SGO list for a calendar year at any time before the deadline for perfecting or completing an election for that year by

submitting the change in the IRS State section 25F portal in accordance with future guidance.

*(ii) Additions to State SGO list after the deadline for the elected calendar year.*

Except to the extent provided otherwise in guidance, a State may not make any additions to the State SGO list for a calendar year after the deadline provided in paragraph (c)(3)(ii) or (c)(4) of this section, as applicable. Any additions a State seeks to make after that deadline may be included as part of the State's submission of its State SGO list for the following calendar year.

*(iii) Removal from State SGO list—(A) Removal request from SGO.* If an SGO requests to be removed from a State SGO list, a State must comply, indicate the removal and its effective date on that list, and promptly notify the IRS of that removal through the IRS State section 25F portal so the IRS can remove the SGO from the IRS SGO list for the current year.

*(B) State removal procedures.* A State may remove an SGO from its State SGO list if the State determines, through a procedure providing due process to the organization, that the SGO is not located in the State, or that the SGO does not satisfy the requirements for an SGO in section 25F(c)(5) or (d) or the applicable State requirements described in paragraph (e)(1) of this section. The State must promptly notify the IRS of the removal and its effective date through the IRS State section 25F portal.

*(8) Removal of a non-compliant organization from the IRS SGO list.* An organization may be removed from the IRS SGO list, and will be shown on that list as having been removed as of the date the IRS removes the organization from that list, in the following circumstances:

*(i) Removal following change in tax-exempt status.* The IRS will remove an organization from the IRS SGO list if:

(A) The organization is not described in section 501(c)(3) and exempt from tax under section 501(a); or

(B) The organization is a private foundation.

(ii) *IRS determination of non-compliance with applicable requirements.* The IRS may remove an organization from the IRS SGO list following a determination that the organization has failed to comply with a requirement of section 25F (other than the tax-exempt status requirement in section 25F(c)(5)(A)) or has failed to comply with the applicable reporting, recordkeeping, or audit requirements, including a failure to report qualified contributions in accordance with § 1.25F-4T(c). Such an IRS determination is a Federal tax controversy under section 7803(e)(3), which gives the SGO an opportunity to seek review of the determination by the IRS Independent Office of Appeals in the time and manner prescribed in applicable forms, instructions, or other administrative guidance.

(iii) *Removal following State SGO status determination—(A) In general.* If a State removes an SGO from its State SGO list in accordance with paragraph (d)(7)(iii) of this section, the IRS will remove an SGO from the relevant part of the IRS SGO list.

(B) *Multistate SGO.* If a State removes a multistate SGO from its State SGO list under paragraph (d)(7)(iii) of this section, but the SGO continues to satisfy all applicable requirements for an SGO in a different covered State on whose State SGO list it appears, as well as the applicable requirements as described in paragraph (e)(1) of this section in such other State(s), the SGO will remain on the IRS SGO list with respect to such other covered State(s), subject to any further discretionary examination of the SGO by such other covered States or the IRS.

(9) *Publication of covered States and State SGO lists—(i) In general.* The IRS will maintain and publish the IRS SGO list on <https://www.irs.gov>. For those SGOs that have authorized the disclosure of their information on the IRS SGO list, the IRS SGO

list will contain each SGO included on a State SGO list for each of the covered States for the calendar year and reflect each removal from a State SGO list and the date of the removal.

*(ii) Addition of organizations with pending tax-exempt status to IRS SGO list.*

Upon determining that an organization described in paragraph (d)(5) of this section qualifies for tax-exempt status and that the effective date of such tax-exempt status is on or before January 1 of the calendar year for which the State SGO list applies, the IRS will add the organization to the IRS SGO list for that year if, and as soon as, the organization authorizes publication of its information to be included on that list.

*(e) State administrative requirements—(1) In general.* Except as provided in paragraph (e)(2) of this section, a State must:

(i) Require that organizations meet all generally applicable State requirements for charitable organizations, including any State requirements that any organization must satisfy to be authorized to do business in the State and to solicit charitable contributions in the State; and

(ii) Require SGOs to comply with application, documentation, and financial reporting requirements that are reasonably tailored to:

(A) Support the State's certifications under paragraph (d)(3) of this section; and

(B) Facilitate the prevention and detection of fraud or abuse, including the misuse of scholarship funds, such as through the duplication of scholarship awards to the same student for the same qualified elementary or secondary education expense.

*(2) Prohibition on additional State requirements or discretionary exclusions.* A State may not require SGOs to operate in a manner that is more restrictive than the requirements set forth in section 25F(c)(5), such as by limiting the type of school that scholarship recipients may attend or the types of qualified elementary or secondary education expenses for which scholarship funds may be used. Accordingly, the State

requirements provided in paragraph (e)(1)(ii) of this section must be reasonably related to determining whether an organization is located in the State, meets the requirements of section 25F(c)(5) and the operational requirements in section 25F(d), and satisfies the generally applicable State requirements for charitable organizations in the State for accountability and fraud prevention.

(3) *Federal review.* The procedures a State implements in accordance with this paragraph (e) are subject to Federal review. Upon discovering a pattern of irregularities or noncompliance, the IRS, in its discretion, may require a State to modify its procedures to ensure that its determinations regarding an organization's satisfaction of the requirements in section 25F(c)(5) and (d) are being administered in accordance with the applicable statutory, regulatory, and appropriate State requirements.

(f) *Applicability date.* This section applies on or after September 1, 2026. The applicability of this section expires on or before October 1, 2029.

**Frank J. Bisignano,**

*Chief Executive Officer.*

Approved: September 10, 2026

**Kevin Salinger,**

*Acting Assistant Secretary of the Treasury (Tax Policy).*

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