

Preview of Forthcoming Section 25F Guidance

Remarks delivered by Deputy Assistant Secretary for Tax Policy Kevin Salinger on Tuesday, June 9, 2026:

Treasury and the IRS expect to issue proposed regulations this coming back-to-school season – no later than the end of September. States, SGOs, and taxpayers will be able to rely on those proposed regulations for tax year 2027. But we recognize the need to plan, so today I’m going to preview key issues in those forthcoming proposed regulations. These items remain subject to ongoing legal review, but we intend for the proposed regulations to be consistent with this preview. Many of you have been eagerly awaiting this information, and Treasury is pleased to deliver it today.

Safe harbor for 90% in a segregated account. Let me start with the 90-percent spending requirement. As many of you know, an eligible SGO must spend at least 90% of the income of the organization on scholarships for eligible students. We expect the proposed rules will generally measure the 90-percent spending requirement against the organization’s total receipts, unreduced by expenses. But if the organization’s activities are largely scholarship-granting activities, the organization could use a safe harbor under which “income of the organization” is measured by the amount held in a section 25F segregated account, including qualified contributions and earnings. For a multistate SGO, that safe harbor would have to be satisfied separately for each State-specific segregated account.

“Located in the State.” The next issue is what it means for an SGO to be “located in” a participating State. We expect the proposed rules will define an SGO as “located in” a State if it is authorized to do business in that State and complies with generally applicable State charitable-organization rules, including rules for transparency, accountability, and fraud prevention. At the same time, States may not impose substantive SGO-specific requirements that are more restrictive than section 25F’s requirements.

Multistate SGO definition and eligibility standard. We also recognize that some SGOs may want to operate in more than one participating State, and the proposed rules are expected to provide a path for that. An SGO may be listed on more than one participating state SGO list as long as it is located in that State and maintains a separate section 25F account for that State. Most operational requirements would be applied separately to the State account, while certain organization-wide rules would apply to the multistate SGO as a whole.

Definition of school. We also expect to address the types of schools that may be served by scholarships under the program. We expect the proposed rules will define “school” consistent with section 530 to include public, private, and religious schools providing K–12 elementary or secondary education as determined under State law. Accordingly, a home school would be treated as a school if it is treated as a school under State law. We expect the proposed rules will clarify that K–12 schools operated by a federally recognized Tribe or tribal organization qualify as elementary or secondary schools.

Verification of student’s income qualification through direct income verification, categorical eligibility, foster-child safe harbor, and additional safe harbors. Another important implementation question is how SGOs can verify student eligibility in a way that is reliable, but not unnecessarily burdensome for families. We expect the proposed rules will allow SGOs to verify a student’s household income directly through documents such as paystubs, tax returns, IRS transcripts, Forms W-2, or through crediting agencies or commercial data sources. They also would allow determination of eligibility based on recent documentation that a household member participates in a needs-based Federal, State, or Tribal program with income limits at or below the specified threshold, and would treat foster children as satisfying the income requirement without separate income verification. We are also considering other safe harbors for students attending schools in low-income areas.

Preventing fraud and abuse. We know that States have raised real concerns about fraud and abuse, and our goal is to pair broad opportunity with strong, administrable safeguards. Each SGO would have to obtain an annual financial and programmatic audit by a qualified independent third party and provide it to each covered State on whose list it appears. For smaller SGOs, the proposed rules would allow a more streamlined alternative: the audit could be conducted by an internal committee unrelated to the organization's management, with the report signed under penalties of perjury.

The audit is intended to make State oversight manageable. Rather than requiring States to recreate the compliance review from scratch, States could use the audit to help verify that each organization satisfies the requirements to be an SGO under section 25F, identify apparent deficiencies, and determine whether further inquiry or removal from the State list is appropriate.

Participating States would still be expected to take reasonable steps to prevent fraud and abuse, including processes to prevent duplicate awards to the same student for the same expense. One possible approach would be to require a formal scholarship acceptance certifying that no other award has been received for the same expense, but we welcome input on administrable ways to address this risk. We are also considering appropriate safeguards to help prevent misuse of scholarship funds.

Unique donor number reporting requirement. On the donor side, we are focused on a reporting approach that supports compliance without requiring SGOs to collect more sensitive information than necessary. The SGO would provide each donor a timely written acknowledgment of their annual contributions, including the total amount of the donor's qualified contributions and a unique donor number generated under an IRS-provided method. The SGO would also report donor and contribution information to the IRS using the unique donor number, and taxpayers claiming the credit generally would report that number on their Federal return. This information can be used in a matching process that is intended to help prevent fraud by allowing the IRS to confirm that a claimed credit corresponds to an actual donor, an actual SGO, and qualified contributions reported by that SGO, without requiring a donor to provide his or her Social Security Number to the SGO.

Planned IRS SGO portal. We are also thinking ahead about the infrastructure needed to make administration easier over time. We expect the proposed rules will contemplate an IRS portal to support SGO administration and reporting. The goal is to build a user-friendly interface that can streamline interactions between SGOs and the IRS, but the precise functionality and timing may develop in phases rather than all being available on day one.

Section 530 guidance. Finally, we know that many stakeholders are focused on the scope of eligible expenses, including services that help meet students' individual needs. We recognize that additional guidance under section 530 regarding the scope of eligible expenses will be important, and we expect that to be a separate workstream that will follow the issuance of the section 25F proposed regulations. Consistent with the statutory text of section 530, we fully intend that scholarships may be used to support additive academic tutoring and special needs services, and we expect future guidance to address those issues in more detail.

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