

810-3-61-.02 Credits for Contributions to Scholarship Granting Organizations (SGOs).

(1) Scope: Act 2013-64, as amended by Acts 2013-265 and 2015-434, provides for income tax credits to individuals and corporations making scholarship donations to SGOs. This rule prescribes procedures for making scholarship donations and claiming income tax credits.

(2) Credits will be limited to scholarship donations which are bona-fide gifts.

(a) The donor may not receive anything of value from the SGO in return for the gift nor place any restrictions on the use of the donated funds. A donation that is restricted or conditioned in any way by a donor is not eligible for an income tax credit under the Act 2013-64, as amended.

(b) No relative of the donor may receive a scholarship from the SGO to which the donation was made.

(c) A child, grandchild or sibling will be considered a relative, as will a child or grandchild of a sibling, parent or grand parent.

(3) Allowable scholarship donations must be in cash. They cannot be services, forgiveness of debt, barter or non-cash assets.

(4) A donor must enter the donation into the Department's system for tracking scholarship donations and credits. The credits will be reserved on a first-come, first-served basis, subject to verification by the SGOs. A donor failing to enter the donation into the Department's system to reserve the amount of the credit may lose the right to claim the tax credit if the \$30 million of maximum available credits has been reached.

(5) A donor may not claim an income tax deduction on the Alabama tax return for the same contribution for which a credit is allowed on the current year's tax return nor for which the credit is carried forward to a future tax year.

(6) The allowable credit for a corporation is limited to 100% of the amount of its donation. The maximum allowable credit for an individual taxpayer is \$50,000.00 or 100% of his/her donation, whichever is less. The maximum allowable credit for an individual taxpayer who is claiming the credit as the result of a donation to an SGO by an Alabama S corporation or a Subchapter K entity is limited to 100% of the individual's pro rata or distributive share of the donation by the Alabama S corporation or Subchapter K entity, or \$50,000 whichever is less.

(7) The actual credit used to offset a taxpayer's tax liability for a given tax year, is limited to 50% of the tax liability of the taxpayer, or the amount of the allowable credit, whichever is less.

(8) The allowable credit may be claimed only once. If the allowable credit

exceeds 50% of the tax liability in the tax year the donation is made, the unused portion may be carried over for up to three years. Any unused allowable credit carried over from a prior year may be added to the allowable credit for the current year, and may be claimed for the current year, subject to the overall limitation of 50% of the tax liability of the donor, and in the case of individual taxpayers, \$50,000.00.

(9) Other than the credits claimed by individual taxpayers who are shareholders of Alabama S corporations or partners or members of Subchapter K entities, credits may only be claimed by the donating individual or corporate entity, and may not be assigned or transferred to any other taxpayer.

Author: Curtis Stewart and Neal Hearn
Authority: Sections 40-2A-7(a)(5) and 16-6D-1, Code of Alabama 1975
History: New rule: Filed August 23, 2013, effective September 27, 2013.
Amended: Filed November 30, 2015, effective January 4, 2016.