

810-3-61-.02      The Alabama Accountability Act of 2013 Credits for Contributions to Scholarship Granting Organizations (SGOs)

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

(a) Donor Restrictions. The donor may not receive anything of value from the SGO in return for the gift or place any restrictions on the use of the donated funds.

(b) A donation that is restricted or conditioned in any way by a donor is not eligible for an income tax credit under the Alabama Accountability Act of 2013.

(c) No relative of the donor may receive a scholarship from the SGO to which the donation was made. Relatives include but are not limited to:

1. Children
2. Grandchildren
3. Siblings
4. Children or grandchildren of a sibling
5. Parents
6. Grandparents

(2) Donation Conditions.

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

(b) All donations must be entered into the Department's scholarship tracking system.

(c) Credits will be reserved on a first-come, first- served basis, subject to verification by the SGOs.

(d) Once the \$30 million threshold has been reached and approved, a donor may lose the right to claim the tax credit.

(e) 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 or for which a credit is carried forward to a future tax year.

(f) 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.

(3) For Taxable Years Ending Prior To December 31, 2021.

(a) A corporation can take up to 100% of the total contributions made to a SGO during a taxable year as an allowable credit of up to 50% of the tax liability of the corporation.

(b) An individual taxpayer or married couple filing jointly can take up \$50,000 or 100% of his/her total contribution, whichever is less, made to a SGO during a taxable year as an allowable credit of up to 50% of the tax liability of the individual.

(c) 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.

(d) 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 claimed after the allowable credit 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.

(4) For Taxable Years Beginning After December 31, 2021.

(a) A corporation can take up to 100% of the total contributions made to a SGO during a taxable year as an allowable credit of up to 100% of the tax liability of the corporation.

(b) The maximum allowable credit for an individual or married couple filing jointly is 100% of the tax liability not to exceed \$100,000, or 100% of his/her total contribution, whichever is less.

(c) Any allowable credit exceeding 100% of the taxpayer's liability may be carried forward for up to three years. Available carry forwards must be applied after any current year allowable credit, subject to the overall limitations provided in subparagraphs (4)(a) and (4)(b).

Author: Curtis Stewart and Neal Hearn.  
Authority: Sections 40-2A-7(a)(5), 16-6D-1 and 16-6D-9, Code of Ala. 1975.  
History: **New rule:** Filed August 23, 2013, effective September 27, 2013.  
**Amended:** Filed November 30, 2015, effective January 4, 2016.  
**Amended:** Filed February 18, 2022; effective April 14, 2022.  
**Repeal and Replace:** Filed September 9, 2022; effective  
November 14, 2022.