



May 28, 2026

**SUBMITTED VIA FEDERAL eRULEMAKING PORTAL**  
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Internal Revenue Service  
Attn: CC:PA:01:PR (Notice 2026-23)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

**Re: Invitation for Public Recommendations on Items to Be Included on the Department of the Treasury’s and Internal Revenue Service’s 2026–27 Priority Guidance Plan**  
**Agency/Docket Number: IRS-2026-0364**  
**Notice 2026-23**

To Whom It May Concern:

On March 23, 2026, the U.S. Department of the Treasury (“Treasury”) and the Internal Revenue Service (“IRS”) published Notice 2026-23 requesting recommendations from the public on items to be included on the agencies’ 2026–27 Priority Guidance Plan (“2026–27 PGP”).<sup>1</sup> In response to that request, the Defense of Freedom Institute for Policy Studies (“DFI”) writes respectfully to urge Treasury and the IRS to prioritize on the 2026–27 PGP rulemaking, administrative

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<sup>1</sup> U.S. DEP’T OF THE TREASURY & INTERNAL REVENUE SERV., NOTICE 2026-23, PUBLIC RECOMMENDATIONS INVITED ON ITEMS TO BE INCLUDED ON THE 2026–2027 PRIORITY GUIDANCE PLAN (2026) [hereinafter “NOTICE 2026-23”], *available at* <https://www.regulations.gov/document/IRS-2026-0364-0001>.



(202) 627-6735



[info@dfipolicy.com](mailto:info@dfipolicy.com)  
[dfipolicy.org](http://dfipolicy.org)



1455 Pennsylvania Avenue, NW  
Suite 400  
Washington, DC 20004



guidance, or both implementing the Federal Scholarship Tax Credit (“FSTC”)<sup>2</sup> established in 2025 as part of the Working Families Tax Cuts Act (“WFTCA”).<sup>3</sup>

Beginning in tax year 2027, the FSTC provides taxpayers the opportunity to receive a credit against their federal income tax for each taxable year in which they make a donation to an eligible organization that offers scholarships to elementary and secondary school students for certain educational expenses. As explained below, the ability of students and taxpayers to benefit from this credit in 2027 hinges on Treasury’s and the IRS’s prioritization of clear and carefully considered guidance to stakeholders that explains how they will apply various provisions of the law to families, taxpayers, states, and scholarship-granting organizations (“SGOs”). This letter identifies some of the issues arising under the FSTC that call for resolution through Treasury and IRS regulations or guidance and a brief analysis of how we believe the agencies should resolve those issues.

DFI offers substantial expertise on this topic. Launched in 2021, we are a national nonprofit organization dedicated to defending and advancing freedom and opportunity for every American family, student, entrepreneur, and worker and to protecting the civil and constitutional rights of Americans at school and work. Former senior leaders of the U.S. Department of Education under former Secretary Betsy DeVos created DFI in part to promote education freedom for families and teachers, and both co-founders have worked with Secretary DeVos since she developed and promoted a federal tax credit starting in 2017.

DFI is committed to helping Treasury and the IRS deliver on the promise the FSTC represents for K–12 students across the country in the form of an education that best suits their needs and interests and effectively prepares them to fulfill their potential. We are thus pleased to offer our recommendations regarding the important questions that must be resolved in a timely way to maximize the number of students who can benefit from FSTC-compliant scholarships beginning next year.

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<sup>2</sup> See 26 U.S.C. § 25F.

<sup>3</sup> Pub. L. No. 119-21, 139 Stat. 72 (also known as the One Big Beautiful Bill Act).



This letter first discusses Treasury’s and the IRS’s invitation for recommendations of projects to include in their 2026–27 PGP and the relevant criteria these agencies specify will be used to evaluate such recommendations. It then briefly sets out the statutory framework of the FSTC, as established by the WFTCA, and identifies a non-exhaustive list of questions Treasury and the IRS must answer through rulemaking or guidance, especially with regard to how the law applies to married taxpayers filing jointly and its participation requirements for states and SGOs.<sup>4</sup> Finally, the letter explains why it is necessary for Treasury and the IRS to prioritize the resolution of these questions in a reasonably expeditious timeframe to ensure effective participation in the FSTC in 2027 and beyond.

### **Invitation for 2026–27 PGP Recommendations**

Treasury and the IRS explain in Notice 2026-23 that the purpose of their annual Priority Guidance Plan is “to identify and prioritize the tax issues that should be addressed through regulations, revenue rulings, revenue procedures, notices, and other published administrative guidance.”<sup>5</sup> Thus, the 2026–27 PGP “will identify guidance projects that the Treasury Department and the IRS intend to actively work on as priorities” from July 1, 2026, through June 30, 2027.<sup>6</sup> Public recommendations are useful in determining what to include on these plans because they offer Treasury and the IRS “the experience and knowledge of taxpayers and practitioners who must apply the rules implementing the tax laws” and identify “guidance items that are most important to taxpayers and tax administration” on which to focus the agencies’ resources.<sup>7</sup>

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<sup>4</sup> For additional recommendations and analysis of how Treasury and the IRS can effectively implement § 25F through the rulemaking process according to statutory language and congressional intent, see DFI’s letter dated December 26, 2025, responding to Treasury and the IRS’s request for public comments on forthcoming proposed regulations implementing the FSTC:

<https://dfipolicy.org/wp-content/uploads/2025/12/DFI-Comment-Responding-to-IRS-Notice-2025-70-12.26.2025.pdf>.

<sup>5</sup> NOTICE 2026-23, *supra* note 1, at 1.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*



As a factor in determining whether to include a project on the 2026–27 PGP, Treasury and the IRS state that they will consider whether it “relates to recently enacted legislation,” specifically including the WFTCA.<sup>8</sup> As relevant here, they also will evaluate “[w]hether the recommended guidance resolves significant issues relevant to a broad class of taxpayers;” “[w]hether the recommended guidance promotes sound tax administration;” “[w]hether the IRS can administer the recommended guidance on a uniform basis;” and “[w]hether the recommended guidance can be drafted in a manner that will enable taxpayers to easily understand and apply the guidance.”<sup>9</sup>

### **The FSTC**

Signed into law on July 4, 2025, the WFTCA adds Section 25F to the Internal Revenue Code.<sup>10</sup> That section, to which DFI refers in this letter as § 25F, the Federal Scholarship Tax Credit, or the FSTC, provides that individual taxpayers are eligible for a credit of up to \$1,700 against their federal income tax for each taxable year if they make a cash donation to an SGO that meets certain requirements and funds scholarships covering defined educational expenses for eligible elementary and secondary students.<sup>11</sup>

Students are eligible for scholarships only when their state voluntarily elects to let students in its jurisdiction benefit from § 25F scholarships.<sup>12</sup>

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<sup>8</sup> *Id.* at 1–2.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> Pub. L. No. 119-21, § 70411, 139 Stat. 72, 215–17 (codified at 26 U.S.C. § 25F).

<sup>11</sup> 26 U.S.C. § 25F(a)–(b)(1).

<sup>12</sup> *Id.* § 25F(a) (specifying that the amount of the tax credit is “equal to the aggregate amount of qualified contributions made by the taxpayer”); *id.* § 25F(c)(3) (defining “qualified contribution” as a cash contribution to an SGO that uses it to fund scholarships “solely within the State” that includes the SGO on its SGO list).



Any of the 50 states and the District of Columbia may participate in the FSTC by “voluntarily elect[ing] to participate” under § 25F for any calendar year (beginning with 2027) and submitting to Treasury “a list of the [SGOs] that meet the requirements” described in the statute “and are located in the State” (“SGO list”).<sup>13</sup> § 25F refers to each state that does so as a “Covered State.”<sup>14</sup> Governors are specifically empowered to submit the state SGO list, but § 25F also provides that the state list may be submitted “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.”<sup>15</sup>

With respect to the first year of the credit, 2027, states must elect to participate and submit the SGO list “as early as practicable”; after that, they must do so prior to January 1 of the applicable year.<sup>16</sup>

Individuals may only receive a tax credit under § 25F for donations to an SGO that operates in compliance with the law’s requirements. First and foremost, such SGOs must be 501(c)(3) organizations and exempt from taxation under 501(a), and they cannot be private foundations.<sup>17</sup> As stated above, they must be included on a state SGO list for the relevant calendar year.<sup>18</sup> In addition, SGOs must:

- provide scholarships “to 10 or more students who do not all attend the same school”;<sup>19</sup>
- spend “not less than 90 percent of the income of the organization on scholarships for eligible students”;<sup>20</sup>

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<sup>13</sup> *Id.* § 25F(c)(1); *id.* § 25F(g)(1)(A).

<sup>14</sup> *Id.* § 25F(c)(1).

<sup>15</sup> *Id.* § 25F(g)(1)(B).

<sup>16</sup> *Id.* § 25F(g)(1)(A).

<sup>17</sup> *Id.* § 25F(c)(5)(A).

<sup>18</sup> *Id.* § 25F(c)(5)(D).

<sup>19</sup> *Id.* § 25F(d)(1)(A).

<sup>20</sup> *Id.* § 25F(d)(1)(B).



- “not provide scholarships for any expenses other than” expenses defined by statute as “qualified elementary or secondary education expenses”;<sup>21</sup>
- prioritize providing scholarships to eligible students awarded a scholarship in the previous school year and, after that, eligible students who are siblings of those who have received such an SGO scholarship;<sup>22</sup>
- “not earmark or set aside contributions for scholarships on behalf of any particular student”;<sup>23</sup>
- verify that the household income of any student receiving a scholarship under the FSTC does not exceed 300 percent of the area median gross income;<sup>24</sup> and
- not award a scholarship to any disqualified person.<sup>25</sup>

### **A Selection of FSTC Provisions Requiring Treasury and IRS Guidance**

The general mechanism through which the WFTCA offers credits to taxpayers who donate to SGOs that meet certain requirements and offer scholarships covering educational expenses of elementary and secondary school students is not in doubt; however, before they will elect to expend significant resources to solicit funds for and offer scholarships in compliance with the FSTC in 2027, SGOs need to understand what they must do to be eligible. Likewise, before states submit an SGO list to Treasury—and, for some states, before they elect to allow students and families within their borders to benefit from the FSTC by opting in to the credit—

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<sup>21</sup> *Id.* § 25F(d)(1)(C).

<sup>22</sup> *Id.* § 25F(d)(1)(D).

<sup>23</sup> *Id.* § 25F(d)(1)(E).

<sup>24</sup> *Id.* § 25F(d)(1)(F); *id.* § 25F(c)(2)(A).

<sup>25</sup> *Id.* § 25F(d)(2)(A).



they will reasonably wish to know the obligations to which these actions will subject them and the relevant deadlines by which they must opt in to the credit and submit the list.

To illustrate the acute need for Treasury and IRS guidance on issues that arise under § 25F, DFI has compiled below some of the most pressing questions related to taxpayers, states, and SGOs that Treasury and the IRS must resolve through regulations or guidance and that, ultimately, could have a substantial impact on students' ability to benefit from the donations contemplated by the law in 2027 and thereafter.

### ***Married Couples Filing Jointly***

§ 25F provides that “an individual who is a citizen or resident of the United States” may claim “as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year.”<sup>26</sup> The law limits that credit allowed “to any taxpayer for any taxable year” to \$1,700;<sup>27</sup> however, it says nothing about married couples filing their tax returns jointly.

That omission raises the question for taxpayers who wish to qualify for the credit beginning in 2027 whether they may receive a credit for their combined donations to an eligible SGO of up to \$3,400, or whether the law only allows them to claim a credit of up to \$1,700 on their joint return.

*DFI's Recommendation:* For reasons explained in DFI's public comment submitted on December 26, 2025,<sup>28</sup> based on Congress's goals in creating the FSTC, regulatory precedent, and case law, Treasury and the IRS should issue regulations or guidance confirming that § 25F entitles *each* taxpayer in a married couple filing jointly to a tax credit of up to \$1,700 for his or her qualified contribution under the FSTC—

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<sup>26</sup> *Id.* § 25F(a).

<sup>27</sup> *Id.* § 25F(b)(1).

<sup>28</sup> *Supra* note 4.



meaning that a married couple filing jointly can claim up to \$3,400 in credits reducing the couple's tax liability for the applicable calendar year.

### ***Content of State SGO Lists***

§ 25F requires each Covered State to include on its annual list of SGOs “the scholarship granting organizations that meet the requirements described in” the law “and are located in the State.” This leads first to the question whether a state that allows its students to receive scholarships under the FSTC must list all of the SGOs located in the state or may choose a subset of them, and second to the question what it means to be “located” in a state. For instance, must a Covered State include on its SGO list only SGOs that are headquartered or maintain a physical office in the state, or may it include all SGOs that are registered to do business in the state? As it will contribute significantly to shaping SGO lists in each state, this is an important question that Treasury and the IRS must answer as Covered States prepare their SGO lists for 2027.

*DFI's Recommendation:* With an eye to effectuating the broad purpose of the law to extend scholarships to more students, DFI recommends requiring states that opt in to the FSTC to include on their lists *all* SGOs that meet the requirements of the FSTC and are registered to do business within the state's borders. This interpretation also aligns with the limited role of states contemplated in statute. Once states elect to participate in the FSTC, their role is simply to identify for Treasury which SGOs are located in the state and will abide by the requirements identified in § 25F. It would reduce administrative and pecuniary burdens for SGOs and alleviate burdens for the IRS related to recognizing the tax-exempt status of sundry new 501(c)(3) organizations.

### ***Covered State Verification Requirements***

§ 25F's broad language does not specify the precise extent to which the law requires officials in Covered States to verify that all organizations on their SGO lists comply with the requirements of § 25F and are eligible to offer scholarships pursuant to the credit. Can governors or other officials designated by Covered States rely on



affidavits from SGOs affirming that they are eligible to provide scholarships under the law and will meet its requirements, or must state officials go to greater lengths to confirm that SGOs are eligible under § 25F and either are meeting or are equipped to meet its SGO standards—or some combination of the two?

These questions—which help determine the role of states that choose to participate in the FSTC and the level of resources they must expend in submitting their SGO lists—are critical ones to which many states need answers from Treasury and the IRS as they determine whether to opt in to the FSTC. And, of course, states that have already elected to participate need the answers to these questions as they create their initial SGO lists for the 2027 tax year.

*DFI's Recommendation:* Giving governors or other designated officials in Covered States a muscular role in investigating and certifying the eligibility of every organization on their SGO list to participate in the FSTC is a hazardous path that could both chill participation due to onerous verification requirements *and* incentivize partisan political manipulation by state officials seeking to weed out from their SGO lists organizations that offer scholarships covering a disfavored set of educational expenses. Treasury and the IRS should recognize that § 25F sets out what is merely a ministerial role for the states that elect to allow their students to benefit from the FSTC. For that reason, beyond basic verification requirements—such as, for instance, verifying an organization's 501(c)(3) status and exemption from federal taxation—Covered States should be able to rely on SGO affidavits affirming that they are eligible to participate and will abide by the obligations identified in § 25F.

### ***Encouraging Participation by Multi-State SGOs***

Since § 25F does not explicitly mention SGOs that serve students in multiple states, the question may arise whether the law contemplates that such multi-state SGOs will be eligible to offer FSTC-compliant scholarships. Treasury and the IRS should quickly dispel this misconception through rulemaking or guidance to encourage multi-state SGOs to participate in the FSTC as early as possible.



*DFI's Recommendation:* In establishing the FSTC, lawmakers plainly contemplated a nationwide credit that would include participation by SGOs operating in multiple states, including several privately funded and state-funded SGOs that already provide scholarships in several states. When the FSTC first becomes effective in 2027, multi-state SGOs will help address infrastructure shortfalls by immediately allowing established organizations with scale to offer scholarships in states that opt in. Treasury and the IRS should thus issue regulations or guidance welcoming the participation of multi-state SGOs in the FSTC.

### ***State Opt-in Deadline for 2027***

As explained previously, § 25F generally requires states to elect to allow their students to benefit from the FSTC and submit their SGO lists by January 1 of each applicable year; however, for 2027, the law provides that Covered States opt in and submit their lists “as early as practicable.”

The law thus leaves to Treasury and the IRS the decision of what constitutes a “practicable” deadline for states to opt in and submit their lists of SGOs. Such a decision has meaningful and obvious consequences; unreasonably curtailing the timeframe in which states can elect to participate could result in preventing students across many states from benefiting from the FSTC next year. Treasury and the IRS should resolve this question by providing a practicable deadline for states based on the need for them to compile a comprehensive SGO list and for SGOs to prepare to offer scholarships pursuant to the FSTC in states where they are able to do so.

*DFI's Recommendation:* Because § 25F specifically contemplates that Treasury may extend the period in which a state may elect to participate and submit its SGO list beyond January 1 for 2027, Treasury should strongly consider exercising its statutory authority to allow states to complete their process at any time during 2027. Such an extension would give SGOs more time to determine whether they can generate sufficient donor and student interest in scholarships that comply with the § 25F requirements, and it would grant to states more time to identify SGOs. It would also offer to newly elected governors taking office in early 2027 the



opportunity to opt in and allow their students to benefit from the FSTC, or newly elected legislatures the opportunity to designate an official who will do so.

### ***“90 Percent” of SGO Income Requirement***

As explained above, § 25F provides that an eligible SGO must spend “not less than 90 percent of the income of the organization on scholarships for eligible students.” But what counts as “the income of the organization”? Is it income from any source, including non-FSTC donations, or (far more likely in light of the context in which the FSTC was created) is it only income from donations funding SGO scholarships pursuant to § 25F?

Before Treasury and the IRS answer that question, many existing SGOs will be unable to determine whether they can participate in the FSTC because compliance within their existing organizational structure will be unworkable. Rather than risk a multitude of existing SGOs being left off state SGO lists across the country because these organizations are uncertain about the application of this “90 percent” provision to their operations, Treasury and the IRS should prioritize regulations or guidance that resolve this issue and allow existing SGOs to understand their obligations if they decide to participate.

Related important issues include, first, how Treasury and the IRS will define what constitutes SGO spending on scholarships—whether this includes only scholarship funding that is distributed to families or also extends to spending, for instance, to verify student eligibility or to meet IRS reporting and documentation requirements. Second, Treasury and the IRS must inform SGOs what timeframe they will use to measure their compliance with the “90 percent” requirement—whether this will be based on receipts and expenditures each year or on a longer, rolling basis. Many SGOs will need to know these details prior to affirming that they are capable of participating in the FSTC and being included on state SGO lists.

*DFI’s Recommendation:* DFI strongly believes that the congressional goal of expanding educational opportunity through the FSTC will be totally frustrated if Treasury and the IRS read the “90 percent” requirement to exclude SGOs that



engage in state-based and privately funded educational freedom and other programs. In accordance with other provisions of § 25F that make clear the law is only intended to regulate scholarships under the FSTC and not interfere with other types of scholarships or activities in which an SGO is already engaged,<sup>29</sup> Treasury and the IRS should recognize that § 25F only extends to requiring participating SGOs to spend at least 90 percent of their income *received from donations under the FSTC* on scholarships for eligible students.

For the purpose of maximizing the amounts received by families pursuant to FSTC scholarships, DFI proposes that Treasury and the IRS define SGO expenditures “on scholarships” that are subject to the “90 percent” requirement as funds that are distributed to families as scholarships. We recommend that regulations or guidance establish that Treasury and the IRS will calculate the income of each participating SGO (from donations received pursuant to the FSTC) on the basis of a rolling, three-year average, thus taking into account the startup costs for SGOs as they ramp up and prepare to fundraise for, design, and distribute scholarships and verify recipients’ income.

### ***SGO Recordkeeping and Reporting Requirements***

In approximately seven months, eligible SGOs will begin to receive qualified contributions from donors for FSTC-compliant scholarships. As soon as practicable before that time, these SGOs need to know what information they must request from donors and either retain in their records or report to the IRS, as well as any information they must offer such donors. § 25F charges Treasury with establishing the regulations or guidance relating to “recordkeeping or information reporting

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<sup>29</sup> See, e.g., 26 U.S.C. § 25F(c)(5)(B) (preventing SGOs from co-mingling FSTC funds with other funds); *id.* § 25F(d)(1)(C) (prohibiting SGOs from providing “scholarships for any expenses other than qualified elementary or secondary education expenses,” which, if mistakenly interpreted to apply to all SGO activities and not just those pursuant to the FSTC, would constitute a severe restriction of existing SGO scholarships that would do nothing to fulfill the purposes of the FSTC). For more, see DFI’s December 26 public comment, *supra* note 4.



for purposes of administering” § 25F.<sup>30</sup> Thus, we respectfully urge Treasury and the IRS to help SGOs prepare to participate in the FSTC by specifying what will be required of them upon accepting a qualified contribution.

*DFI’s Recommendation:* Treasury and the IRS should not establish new, burdensome annual filing requirements obligating each SGO to collect and submit sensitive information regarding donors that could discourage donors and SGOs from participating in the FSTC. Instead, Treasury should start by applying to the FSTC the same reporting rules governing charitable donations for the purpose of including deductions in one’s annual tax return.

Upon donating to an SGO for the purpose of funding a scholarship pursuant to § 25F, a donor should receive from the SGO a written statement acknowledging the receipt of the contribution and confirming that the donor received nothing of value in return for that donation. That documentation should be enhanced to describe the peculiarities of the FSTC, including by requiring the SGO to affirm that it is eligible to receive FSTC contributions under § 25F; that up to \$1,700 (\$3,400 for married couples) of cash donations can be applied as a credit against federal income tax in the year it was contributed; that the tax-credited amount may not also be used as a charitable tax deduction; and that any amounts above the donor’s tax liability for the year can either be used as a tax deduction or carried over for up to five years to be applied against future tax liabilities.

### **The Overwhelming Public Interest in Prioritizing FSTC-Related Guidance**

The time-sensitive need to fill in the details of § 25F for stakeholders successfully to participate in the FSTC beginning next year is a project that easily meets the criteria that Treasury and the IRS announce in Notice 2026-23 that they will consider in deciding whether to include projects in the 2026–27 PGP.

First, the FSTC is part of the WFTCA, which is specifically identified in Notice 2026-23 as an example of recently enacted legislation for which Treasury and the IRS

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<sup>30</sup> 26 U.S.C. § 25F(h)(2).



will prioritize regulations and guidance.<sup>31</sup> In fact, the WFTCA specifically directs Treasury to establish the rules with respect to implementing the credit, particularly regarding the requirements for SGOs and state SGO lists and reporting and recordkeeping obligations.<sup>32</sup>

Second, since all federal taxpayers are eligible to offset their annual tax liability with a credit pursuant to § 25F, guidance and regulations regarding the amount of the credit to which taxpayers are entitled (especially married couples filing jointly), conditions on participating SGOs to which taxpayers may donate to receive the credit, and requirements for states relating to their opt-in decision and their lists of SGOs eligible for FSTC donations resolve “significant issues relevant to a broad class of taxpayers.”<sup>33</sup>

Third, for the reasons described in this letter and in our December 26, 2025, letter responding to Treasury and the IRS’s request for public comments on forthcoming FSTC regulations,<sup>34</sup> we believe our views, which reflect the aforementioned expertise of our organization on the details, purpose, and goals of the FSTC, reflect the principles of sound tax administration.<sup>35</sup>

Fourth, the IRS can administer our recommended guidance on a uniform basis.<sup>36</sup> Regulations or guidance from Treasury or the IRS on these issues would constitute reasonable rules of the road that effectuate the statutory text and the purpose of the WFTCA as enacted. They would apply uniform rules to all who seek to comply with § 25F, resulting in predictability for taxpayers, students, states, SGOs, and Treasury.

Fifth, we have no doubt that Treasury and the IRS can produce regulations or guidance regarding the FSTC that will enable taxpayers to easily understand and

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<sup>31</sup> *See supra* note 8.

<sup>32</sup> 26 U.S.C. § 25F(h).

<sup>33</sup> *See supra* note 9.

<sup>34</sup> *See supra* note 4.

<sup>35</sup> *See supra* note 9.

<sup>36</sup> *See id.*



apply its terms.<sup>37</sup> § 25F contains provisions that are not entirely clear, especially when one reads the text but does not consider the broader context in which it was enacted into law. In this letter and (in a more expanded form) our letter of December 26, 2025,<sup>38</sup> DFI has offered proposals that will clearly resolve matters on which there may be ambiguity in the statute and that we hope will assist Treasury and the IRS in implementing the FSTC in accordance with the law’s statutory directive requiring Treasury to issue regulations or other types of guidance necessary to carry out its provisions.

More broadly, the immense promise of the FSTC for the education freedom of students and their families, along with the fact that stakeholders (especially states and SGOs) are already making decisions regarding whether to participate in the FSTC, elevates its administration to a matter of particular importance and exigency—not only to taxpayers and tax administration, but to K–12 students across the country who could benefit from the scholarships that it will foster *in 2027*. We believe it is natural and in accordance with the goals of the WFTCA for Treasury and the IRS to consider the broader public impact of establishing thoughtful and uniform regulations or guidance, as directed by Congress, regarding a law that will accelerate education freedom for students in states across the country that choose to allow their students to benefit from it. Prioritizing such rules will mean that more students benefit more quickly from the FSTC—especially as, in line with Congress’s goals for the statute, additional states are persuaded by the success of the tax credit to permit FSTC scholarships to flow to students and families located within their borders.

Importantly, SGOs need sufficient time to prepare for implementation of the FSTC in 2027—a complex task that involves putting into place systems for fundraising, verification of applicant eligibility, scholarship distribution, and donor and IRS documentation, among others. Before SGOs can confidently start spending resources to build these systems, they need to know they will be included in state

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<sup>37</sup> *See id.*

<sup>38</sup> *Supra* note 4.



SGO lists. Before states and governors will feel confident submitting their state SGO lists, they will need to review final rules or guidance.

In DFI's discussions across the country, SGOs have suggested that they will need at least six months after being included on a state list to successfully raise funds and provide scholarships in 2027. We thus respectfully urge Treasury and the IRS to prioritize the implementation of this transformative component of the WFTCA by issuing regulations or guidance applying its terms.

### **Conclusion**

DFI appreciates the opportunity to offer these recommendations for items to be included on Treasury's and the IRS's 2026–27 Priority Guidance Plan. If you have any questions, please contact me at [paul.zimmerman@dfipolicy.org](mailto:paul.zimmerman@dfipolicy.org).

Sincerely,

**Paul F. Zimmerman**

Senior Counsel, Policy & Regulatory