

SAM Comments to the IRS to close school voucher program tax shelter

October 7, 2018

On behalf of School Administrators of Montana (SAM) representing the voice of Montana district and school administrators, I write to offer comments on the proposed IRS regulation on contributions in exchange for state or local tax credits. SAM takes no position on the bulk of this regulation and is concerned that by limiting states' and localities' options for working around the \$10,000 SALT deduction cap, it could make it more difficult for state and local governments to fund vital public services.

Nonetheless, we are troubled to see a large volume of comments urging the IRS to include a special carveout for private school tuition tax credits under this regulation, and I am writing to respectfully request that those appeals be rejected. If the IRS issues a final regulation denying or reducing the charitable deduction for donors who benefit from state tax credits, that regulation should apply with equal force to those who donate to private schools.

It would be indefensible for the IRS to overhaul its treatment of state charitable tax credits without addressing the longest-running and most egregious tax shelter operating in this area: profiteering by taxpayers who financially support private school scholarship programs.

The profits being pocketed by these taxpayers come at the expense of state and federal budgets and do not find their way into any school, either public or private. Twelve states are at fault for structuring their programs in a manner that allows wealthy Americans to financially benefit from their contributions to educational scholarship or voucher programs. In contrast, states like Florida, which has the nation's largest educational scholarship program, specifically bar taxpayers from receiving state and federal tax cuts larger than their donations.

Tax accountants, private schools, financial advisors and others in states with tax credit vouchers are marketing these programs as tools for exploiting the federal charitable deduction. Following the passage of "The Tax Cuts and Jobs Act," Pub. L. No. 115-97, this marketing has reached a fever pitch. States such as Alabama and Arizona saw dramatic upticks in usage of their programs in 2018, with federal tax avoidance described by at least one prominent lawyer as a "driving force" behind that uptick. If the IRS issues a final regulation on this topic, fairness demands that it not turn a blind eye to these private school programs.

Sincerely,



Kirk J. Miller, Ed.D.
Executive Director
School Administrators of Montana