

ARKANSAS REGISTER



Proposed Rule Cover Sheet

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Name of Department Department of Finance and Administration

Agency or Division Name Revenue Services

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

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Location and Time of Public Meeting 1:00 p m Room 2030 of the Joel Y Ledbetter Building, 1816 West 7th Street, Little Rock, Arkansas

Philanthropic Investment in Arkansas Kids Program Rules

Proposed Rule

I. Definitions

As used in these Rules:

A. “Act” means the Philanthropic Investment in Arkansas Kids Program Act codified at Ark. Code Ann. § 6-18-2301 through -2308.

B. “Actually received” means in possession of cash, check, or notified of the initiation of electronic fund transfer.

C. “Application” or “tax credit application” means a request from an SGO to provide a Tax Credit under the Act to a Donor;

D. “Budget year” means fiscal year of the State of Arkansas;

E. “Certificate” or “certificate of income tax credit” means the formal award of a Tax Credit under the Act by the Office;

F. “Division” means the Division of Elementary and Secondary Education of the Department of Education;

G. “Donor” or “Taxpayer” means an individual, corporation, partnership, subchapter S corporation, or similar pass-through entity, estate, or trust that is required to file a return under the Arkansas Income Tax Act of 1929, Ark. Code Ann. § 26-51-101 *et seq.*;

H. “Eligible Contribution” means a monetary contribution from a Taxpayer to a scholarship-granting organization, or an amount prorated to be contributed to the scholarship-granting organization under Ark. Code Ann. § 6-18-2308;

I. “Office” means the Office of Tax Credits and Special Refunds of the Department of Finance and Administration;

J. “SGO” or “scholarship granting organization” means an entity that is approved by the Division for participation in the Act; and

K. “Tax Credit” means a nonrefundable credit against the taxes levied by the Arkansas Income Tax Act of 1929, Ark. Code Ann. § 26-51-101 *et seq.*

II. Scholarship Granting Organization Registration

A. Prior to accepting Donor funds under the Act, a Scholarship Granting Organization shall notify the Division of its intent to provide educational scholarships to qualified students attending private school.

B. The Notification in II.A shall include:

1. The Division's Application Form on the Division's website;
2. Proof of exemption from federal income tax under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code, as in effect on January 1, 2021; and
3. If the SGO expects to receive eligible contributions equal to or greater than fifty thousand dollars (\$50,000) during the academic school year, documentation demonstrating financial viability before the start of the academic school year including either:
 - a. A surety bond payable to the State of Arkansas in an amount equal to the aggregate amount of eligible contributions the scholarship-granting organization expects to receive during the academic school year (minimum of \$50,000); or
 - b. Financial information that demonstrates the financial viability of the scholarship-granting organization including a statement by a certified public accountant confirming that the SGO is insured and has sufficient capital or credit to operate in the upcoming school year.

III. Tax Credit Applications

- A. Applications shall be submitted by an SGO to the Office or its successor electronically.
- B. The Office shall publish the Application form to its website in substantially the same form as appended here.
- C. The SGO is responsible for completing the Application with the information provided by the Donor.

IV. Tax Credits

- A. 1. A Taxpayer may claim a Tax Credit for one hundred percent (100%) of Eligible Contributions actually received by the Scholarship-Granting Organization under the Act for which a Certificate is awarded by the Office.
2. An Eligible Contribution to an SGO in exchange for a Tax Credit under the Act shall not be claimed as a charitable deduction to income under Ark. Code Ann. § 26-51-419.
3. An Eligible Contribution to an SGO where no Tax Credit is awarded under the Act may be claimed as a charitable deduction to income under Ark. Code Ann. § 26-51-419.
- B. A Taxpayer may claim a Tax Credit up to the amount listed on the Certificate of Income Tax Credit against the Arkansas Income Tax due in the tax year that the Certificate is issued but not in excess of the Arkansas Income Tax liability of the Taxpayer.

C. Any unused Tax Credit amount may be carried forward to the next-succeeding taxable year and annually thereafter for a total period of three (3) years.

D. Amounts evidenced on an Application that exceed the annual cap on tax credits under Ark. Code Ann. § 6-18-2304(c) may be taken as a charitable contribution deduction under Ark. Code Ann. § 26-51-419 if the Donor does not rescind the contribution amount in excess of the credit.

V. Tax Credit Awards

A. 1. Tax Credits are awarded on a first-come, first-served basis according to the date and time of receipt of the Application by the Office.

2. Applications received prior to January 1 of the year in which the donation to the SGO is made will not be considered for a Tax Credit.

3. Applications must be submitted electronically to the Office which shall determine the date and time of receipt of the Application.

B. If an Application is for an amount that would exceed the amount of remaining tax credit available, the Office shall credit the Donor with the amount of tax credit remaining. Any amount more than the credit remaining may be taken by the donor as a charitable contribution deduction under Ark. Code Ann. § 26-51-419.

C. 1. The Office shall notify a Donor of the approval of the Application by providing a Certificate of Income Tax Credit showing the amount of the Tax Credit awarded, and, if only partial credit was authorized, the amount that may be taken as a charitable contribution deduction.

2. Subject to approval by the Donor, the Office shall also notify the SGO of the Donor and amount of partial credit when partial credit was authorized.

D. Upon meeting the annual cap of Tax Credits under Ark. Code Ann. § 6-18-2304(c)(1), the Office shall notify the Division and the SGOs that the Tax Credit maximum has been reached and no further Tax Credits will be awarded in that year.

E. 1. Any Applications remaining to be processed after the annual cap has been met shall be notified in the same manner as V.C specifying that no Tax Credit was authorized.

2. Subject to approval by the Donor, the Office shall also notify the SGO of the Donors whose applications were not awarded Tax Credits under E.1.

VI. SGO Duties

An SGO shall:

- A. Retain records of all Donor contributions for the Program for six (6) years;
- B. Communicate to potential Donors when the annual cap has been met;
- C. Provide Donors a copy of the Application that is submitted to the Office;
- D. Submit Applications to the Office only for Eligible Contributions that have been actually received;
- E. Ensure that first-time recipients of educational scholarships are qualified students as defined in Ark. Code Ann. § 6-18-2302(3) and were not continuously enrolled in a private school within the state during the previous school year through the Division or from documentation from the public school provided by the eligible student's parent.
- F. Ensure that participating private schools:
 - 1. Annually report student assessment scores and other academic progress of qualified students as defined in Ark. Code Ann. § 6-18-2302(3) to the independent research organization selected by the Division, including without limitation:
 - a. The number of scholarship receiving students under the Act who were dismissed by a private school that is receiving funds through the Act;
 - b. The number of scholarship receiving students under the Act who attended a private school with an educational scholarship through the Act and voluntarily returned to a traditional public school if known;
 - c. The name and accreditation status of private schools that received funds through the Act;
 - d. The number of students in the program who have taken a nationally recognized norm-referenced test, including an alternate assessment, and received the test results;
 - e. The number of students in the program who have been exempted from standardized testing requirements under Ark. Code Ann. § 6-18-2306(9)(C)(ii) and had a portfolio developed;
 - f. The number of students in the program in grades three through ten (3-10) who are not scoring at grade-level as indicated by grade-level equivalency, the percentage of students in the program scoring in each quartile, the lexile score of each student, or other equivalent data for the assessment administered as determined by the Division.
 - 2. Submit a report to the Division annually by June 1, containing the following information based on the previous academic school year:
 - a. The name and address of the scholarship-granting organization;

b. The total number and total dollar amount of Eligible Contributions the scholarship-granting organization received during the previous calendar year as verified by a certified public accountant;

c. The total number and total dollar amount of educational scholarships awarded to qualified students through the program during the previous calendar year as verified by a certified public accountant; and

d. The total number of qualified students, according to the qualified students' respective resident public school districts, who received an educational scholarship from the scholarship-granting organization under this subchapter during the previous budget year as verified by a certified public accountant.

G. 1. If the Division bars an SGO from qualifying as a recipient of Donor funds, the SGO shall notify the affected qualified students who have received educational scholarships under the Act and the affected qualified students' parents or guardians as soon as reasonably practicable upon notice of the disqualification.

2. The SGO shall provide proof of the notification in VI.G.1 to the Division at the same time that the VI.G.1 notification is provided.

H. Provide the Division or the Department of Finance and Administration with all information or records requested as part of any audit or financial review being conducted to ensure compliance with the Act, these Rules, other Arkansas law, or upon a reasonable belief that an SGO has violated the requirements of the Act or these Rules.

VII. Donor Duties

A Donor shall maintain suitable records to substantiate the donation to the SGO in the event of an audit for six (6) years including but not limited to:


- A. A copy of the Application;
- B. A copy of the Certificate of Income Tax Credit; and
- C. Proof of payment to the SGO.

VIII. Pledged Withholding Amounts

If a Donor intends to contribute to an SGO by means of a payroll deduction being withheld from their wages by their employer under Ark. Code Ann. § 6-18-2308, the SGO may require additional records showing the Donor's:

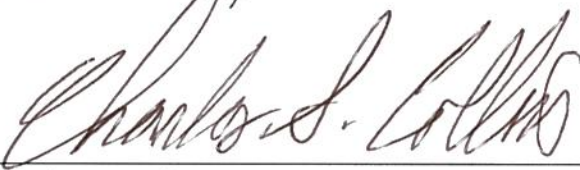
- A. Employer;
- B. Work history; and

C. Any additional information necessary to establish a payroll deposit.



Larry W. Walther, Secretary
Arkansas Department of Finance and Administration

Date: 2/15/, 2022



Charles S. Collins, Commissioner of Revenue
Arkansas Department of Finance and Administration

Date: 2/15, 2022



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**Philanthropic Investment in Arkansas
Kids Program
Tax Credit Application and
Receipt of Eligible Contribution**

1. Scholarship Granting Organization

Name of Organization	FEIN
Address	Telephone
Name and Title of SGO Official Completing Form	

2. Donor

Type of Entity: <input type="checkbox"/> Individual <input type="checkbox"/> LLC* <input type="checkbox"/> Partnership* <input type="checkbox"/> Corporation	
*If entity is Partnership or LLC, please provide a separate attachment that includes name of members, SSN/FEIN, and ownership percentage.	
Name	FEIN/SSN
Address	Telephone

3. Eligible Contribution Information

Eligible Contribution Amount	Consent to Release Tax Credit Information to SGO - Donor authorizes the Department of Finance and Administration (DFA) to notify the Scholarship Granting Organization (SGO) of the amount of tax credit that is certified and granted to Donor (Donor's initial required in box below). <input type="checkbox"/> YES <input type="checkbox"/> NO
Eligible Contribution Date	
Method of Contribution (Cash, Check, EFT)	

4. Signatures of SGO Official and Donor

The persons signing below affirm that the information contained within this application is true and accurate and the eligible contribution above was made by the Donor and actually received by the SGO. In order for this application to be considered for a tax credit, the SGO must provide a copy of this completed and signed application to the Tax Credits/Special Refunds Section of the Department of Finance and Administration electronically at the following e-mail address: PIAKP.TaxCredit@dfa.arkansas.gov.

Signature of SGO Official

Date

Signature of Donor

Date