

**From:** Lisa Kelly <lmkelly@goalscholarship.org>

**Sent:** Wednesday, June 12, 2019 1:41 PM

**Subject:** Good News: IRS Releases Notice Affecting Contributions to Georgia GOAL

Dear GOAL Participating School Officials and Friends of GOAL,

Good News:

1. Additional guidance released by the IRS eliminates any potential federal income tax cost for taxpayers who contribute to a state income tax credit program such as Georgia GOAL. And, of course, their 100% state income tax credit remains intact.
2. The IRS confirmed the potential federal deductibility of contributions to Georgia GOAL by pass-through entities as ordinary and necessary business expenses.

Late yesterday, the U.S. Department of the Treasury issued final rules and additional guidance on the federal income tax treatment of payments made under state and local tax credit programs, retroactive to include all 2019 contributions to GOAL. Although the regulations prevent charitable contributions made in exchange for state tax credits from circumventing the new limitation on state and local tax (SALT) deductions, the IRS issued a notice providing a “safe harbor” that (subject to the \$10,000 SALT cap) allows individual taxpayers who itemize deductions to treat contributions made in exchange for tax credits as payments of state or local taxes for federal income tax purposes:

<https://home.treasury.gov/news/press-releases/sm705>.

This safe harbor means that no taxpayers will incur any cost in connection with contributing to Georgia GOAL. The contributions made to Georgia GOAL will be offset by a 100% Georgia income tax credit and, for those who fall short of the full \$10,000 in SALT deductions, contributions to GOAL up to the \$10,000 cumulative SALT limit may be treated as state income tax payments, which will be deductible for federal income tax purposes.

Additionally, in Item #7 in the Summary of Comments Section, on page 27 of the [IRS Final Regulations](#), the IRS explains that “taxpayers engaged in a trade or business may be permitted a Section 162 [ordinary and necessary business expense] deduction for amounts paid to charitable organizations in some circumstances.” In the line of court cases cited by the IRS in support of this treatment (*Marquis v. Commissioner*, 49 T.C. 695 (1968), et al.), payments made by a pass-through business entity with the reasonable expectation of anticipated benefit to the business will qualify for a federal business expense deduction. As a result, GOAL contributors who own interests in pass-through business entities and their CPAs or financial advisors should consider whether, under this IRS guidance and legal precedent, business entities are able to make payments to GOAL which constitute ordinary and necessary business expenses that are fully deductible for federal income tax purposes. For instance, in the appropriate circumstances, a pass-through business entity may be able to take a federal business expense deduction related to payments made to GOAL in support of a private school located in the community in which it does business, as such an investment can have the effect of improving educational opportunities in the community and the prospect of a pipeline of qualified workers.

The IRS Notice explains that, “The Treasury Department and the IRS will continue to study comments involving the effect of the final regulation on various business entities and will provide additional guidance as needed.” This means there will be an opportunity for tax professionals to educate Treasury and IRS officials about the need for further clarification of this opportunity for a business expense deduction in cases where a state income tax credit is available to the business, including the publication of detailed examples under different case scenarios. Meanwhile, Georgia GOAL will communicate with the Georgia Department of Revenue to facilitate the implementation of this tax treatment of payments by pass-through entities and ensure the proper outcome at both the state and federal levels.

We will discuss these matters at our upcoming Regional Meetings in September, and will inform you immediately of any developments in the meantime.

Best regards,

Lisa