Georgia GOAL Education Expense Tax Credit

Federal Tax Benefit for “C” Corporations and Some Pass-Through Entities

“C” Corporations and Pass-Through Businesses Can Make a Business Payment to the Georgia GOAL Scholarship Program That Benefits Their Local Private Schools

1) In addition to a 100% Georgia income tax credit, is a federal deduction also available for “C” Corporations?

Yes. When the IRS eliminated the federal deductibility of contributions to state income tax credit programs in 2018, they followed up by providing a safe harbor for “C” Corporations [IRS Rev. Proc. 2019-12], indicating that if the contributions to state income tax credit programs constitute ordinary and necessary business expenses, then the businesses may deduct them as such.

2) In addition to a 100% Georgia income tax credit, is a federal deduction also available for some pass-through business entities?

Yes. U.S. Treasury Assistant Secretary for Tax Policy, David Kautter, announced on June 11, 2019 that pass-through business entities will also be permitted to deduct contributions to state income tax credit programs, like Georgia GOAL, if they qualify as ordinary and necessary business expenses.

Under IRC § 162, businesses are able to deduct payments that bear a direct relationship to the taxpayer’s trade or business and are made with a reasonable expectation of financial return commensurate with the amount of the transfer. Treas. Reg. § 1.170A-1(c)(5). The amount of the business expense deduction reduces the net income on which the owners of the business are taxed.

In cases where a pass-through business entity (i.e., a limited liability company, partnership, or “S” corporation) does not pay state income taxes, under certain “facts and circumstances,” the business may be able to take a federal deduction for “ordinary and necessary” business payments made to a charitable organization.

3) What impact could this have on pass-throughs?

When a pass-through business is permitted to take a federal business deduction, the net income of the business to the business owner is reduced by the amount of the contribution, which could have the same tax result as if the business owner received a federal charitable deduction.

4) Will all pass-through contributions qualify for this deduction?

No. The contribution must be an ordinary and necessary business expense in order to qualify for the deduction.

5) What constitutes an ordinary and necessary business expense?

An ordinary expense is one that is common and accepted in a trade or business. A necessary expense is one that is helpful and appropriate for the trade or business. An expense does not have to be indispensable to be considered necessary.
6) How much can I contribute as a “C” Corporation?
At any time during the year, a “C” Corporation or trust shall be allowed a 100% Georgia income tax credit for contributions to Georgia GOAL equal to the amount of the contribution, or 75% of the corporation or trust’s income tax liability, whichever is less.

7) How much can I contribute as a pass-through business owner?
Pass-through owners are limited to a Georgia income tax credit of up to $10,000 of the amount they contribute to Georgia GOAL, so long as they would have paid Georgia income tax in that amount on their share of taxable income from the pass-through entity. If both spouses earn income from pass-through entities, each can contribute up to the $10,000 limit for a total of $20,000.

8) How do I determine how much of this tax credit I can take as a pass-through owner?
All Georgia income, loss and expense from the taxpayer-selected pass-through entities will be combined to determine Georgia income for purposes of this credit. Note: even W2 income from the entity may be included as well as K-1 income (i.e., salaries and profits may be counted). Such combined Georgia income shall be multiplied by 5.75% (Georgia’s 2021 income tax rate) to determine that tax that was actually paid.

- Helpful example: the taxpayer’s Georgia income from pass through entities in 2021 must be at least $173,913 to take advantage of a $10,000 tax credit ($173,913 * 5.5% = $10,000).

9) How does this work if I own more than one pass-through entity?
If the individual has ownership in more than one pass-through entity, the individual decides which pass-through entities to include when computing Georgia income for purposes of this tax credit and may combine all Georgia income, loss and expense regardless of ownership in multiple pass-through entities.

10) As a pass-through entity owner, how do I make payment to Georgia GOAL so that it qualifies for both the federal deduction and the state credit?
In addition to benefiting from the federal business expense deduction taken by the business, proposed Georgia Department of Revenue Rule 560-7-8-.57 reveals that the owner of a pass-through business can apply for a Georgia GOAL Education Expense Tax Credit corresponding to his or her percentage ownership share of the payment the business makes to Georgia GOAL. The pass-through entity may make the payment and take the business deduction in order to receive the beneficial federal tax treatment, and the individual pass-through owner may receive the Georgia income tax credit.

Note: When you submit your tax credit application to Georgia GOAL as a pass-through owner planning to deduct the payment as a business expense, you will provide your personal information, as usual, as well as the name of the pass-through entity which will be making the payment.
11) What are some examples of a pass-through business entity expense?

- In order to ensure the members of a private school community are aware of its reputation and services provided, and to maintain and attract additional clients, a law firm/dental practice/CPA firm makes a payment to GOAL, designating the private school community which shall benefit from the funds.

- To build goodwill and customer loyalty, a construction/food services/textbook vendor makes a payment to a GOAL, designating the private school for which it serves as a vendor/service provider.

12) How do I document the business expense?

Businesses seeking to claim a business expense for payments to charitable organizations should carefully document the business and financial rationale for making such payments, and such documentation should be contemporaneous with the payments. Consider analyzing and documenting the reasonableness of the expectation that amount of the payment to GOAL for the benefit of a private school community will result in a commensurate financial return in terms of brand awareness, customer loyalty, community goodwill, or recruitment of potential clients or customers.

13) Can this tax credit be carried forward?

If the pass-through owner is approved for an amount that exceeds their calculated tax as a result of their pass-through ownership when their return is filed (i.e., all Georgia income, loss, and expense from the taxpayer selected pass-through entities multiplied by the Georgia marginal tax rate, which is 5.75% for 2021), the excess amount cannot be claimed by the taxpayer and cannot be carried forward. Any amount of the credit claimed but not used on the taxpayer’s Georgia income tax return shall be allowed to be carried forward to apply to the taxpayer’s succeeding five years’ tax liability (this applies to “C” Corporations as well).

14) How do I apply for a Georgia GOAL tax credit?

This is an exciting tax planning opportunity about which we recommend that you consult with your tax professional. After doing so, we encourage you to contact us with any questions or to proceed to www.goalscholarship.org to apply for a Georgia GOAL credit for a business payment to GOAL.