



Business Expense Deduction Opportunity for Pass-through taxpayers

A recent IRS proposal has been adjusted to provide clarity regarding the ability for Pass-through taxpayers to claim an ordinary business expense deduction on the Federal return for the amount expended to a qualified tax credit charity when receiving a State tax credit.

“Tax-credit scholarships are changing lives and improving outcomes for more than 270,000 mostly low-income students in 18 states. This Administration is committed to expanding those opportunities. Treasury’s proposed rule, published today, helps ensure that the implementation of the SALT cap does not unintentionally harm donors to scholarship programs. Those who support these students can rely on today’s rule for donations made until a final rule is published in June.” Secretary DeVos

The IRS Proposed Ruling [REG-107431-19] concludes that the amount paid to tax credit charities in exchange for a Georgia tax credit can be claimed as a business expense deduction so long as the taxpayer reasonably believes that this expenditure will generate good will in the community.

What does this all mean?

Pass-through taxpayers, under the IRS proposal, can claim their tax credit payment to Apogee, as a business expense deduction on the Federal return.

What’s the catch?

- The payment to Apogee must be funded from the pass-through entity itself and not the partner/member/shareholder as in the past (otherwise, it will only be a State credit)
- Taxpayer must reasonably believe that the expenditure to Apogee will generate good will

How does one define “good will”?

David Kautter, Assistant Secretary for Tax Policy at the U.S. Department of the Treasury describes “generating good will” as any reasonable belief that the payment to Apogee for a tax credit is a benefit to the community for reasons such as, but not limited to, enhancing the workforce by creating more educational opportunities for disadvantaged youth.

Is there a requirement to prove this value of “good will” is consistent with the amount of the payment to Apogee?

No. The taxpayer having the reasonable belief that, by making a payment to Apogee, they have generated good will towards the community is sufficient. There is no requirement to publicize the business expense or to validate beyond reasonable belief that good will has been generated.

What about Georgia?

The Department of Revenue, under O.C.G.A. § 48-7-27.16(h)(1), states that a taxpayer must add back to Georgia taxable income that part of any Federal deduction taken on a Federal return.

What does this benefit actually mean?

For a \$10,000 Apogee tax credit payment, after calculating the Federal deduction at 36% and the State add back at 5.5%, the end result would be an overall tax savings of approximately \$3,050 in addition to the State credit of \$10,000.

Please consult your tax advisor for further clarity