

PRIVATE TAXPAYER RULING LR02-012

July 24, 2002

The following private taxpayer ruling is in response to your letter of June 24, 2002. Your letter requests a determination on behalf of ... (taxpayer) and ... (employer) with respect to the Arizona individual income tax credit for fees or cash contributions paid to a public school for the support of extracurricular activities or character education programs.

Statement of facts:

Employer proposes to establish a program to benefit extracurricular activities or character education at a particular undetermined public school. Employer will select the recipient public school and then solicit partners and employees of employer to make donations in support of the program.

Issue:

Would a program established by employer to solicit donations from partners and employees of employer to support extracurricular activities or character education at a particular public school disqualify the individual participants from receiving the tax credit provided by statute?

Your position:

Taxpayer and employer believe that if (a) the selected school and extracurricular activity meet the qualifications provided by statute, and (b) each donor is individually eligible to take the tax credit, the fact that the school is selected by employer and donations are solicited by employer, should not disqualify the individual participants from receiving the tax credit provided by statute.

Applicable law:

Arizona Revised Statutes (A.R.S.) § 15-342(24) defines extracurricular activities and requires that each district school board determine which activities are extracurricular and what fees will be levied.

A.R.S. § 43-1089.01 provides an individual income tax credit for the amount of fees or cash contributions paid by a taxpayer to a public school for the support of extracurricular activities or character education programs.

Discussion:

A.R.S. § 43-1089.01 provides an Arizona individual income tax credit for the amount of fees or cash contributions paid by a taxpayer to a public school located in Arizona for the support of extracurricular activities or character education programs of the school. In any taxable year, the allowable credit may not exceed \$200 for a single individual or head of household or \$250 for a married couple filing a joint return. The credit is in lieu of any deduction pursuant to § 170 of the Internal Revenue Code and taken for state tax purposes.

To qualify for the credit, a taxpayer must make cash contributions or pay fees to a public school for support of extracurricular activities or for character education. The statute requires that that the fees or cash contributions be paid "to a public school." Therefore, the payment must be made directly to the public school.

The taxpayer must receive a receipt from the school for the cash contributions or fees paid. The receipt should include the public school name, school district number, taxpayer name, taxpayer social security number (optional), amount paid, date paid, and a description of the activity being supported.

The statute does not contain any language that prohibits solicitation of contributions to benefit extracurricular activities or character education for a public school.

Conclusion and ruling:

On the basis of the information provided, we rule as follows:

Employer's selection of a recipient public school and solicitation from partners and employees for contributions to benefit extracurricular activities or character education programs of the school will not disqualify the individual participants from receiving the tax credit provided by A. R.S. § 43-1089.01.

To qualify for the credit, each participant must make his or her contribution payable directly to the school. The individual contributions may be collected by employer for subsequent transmittal to the school; however, contributions cannot be made payable to employer for subsequent distribution to the school.

Each participant must receive a receipt from the school for the individual's contribution. The receipt should include the public school name, school district number, taxpayer name, taxpayer social security number (optional), amount paid, date paid, and a description of the activity being supported.

This response is a private taxpayer ruling and the determinations herein are based solely on the facts provided in your request. The determinations are subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different department position.

The determinations in this private taxpayer ruling are only applicable to the taxpayer requesting the ruling and may not be relied upon, cited nor introduced into evidence in any proceeding by a taxpayer other than the taxpayer who has received the private taxpayer ruling.