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B-338803

October 21, 2026

The Honorable Mike Crapo
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of the Treasury, Internal Revenue Service: Federal Scholarship Tax Credit*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Internal Revenue Service (IRS) entitled "Federal Scholarship Tax Credit" (RIN: 1545-BS17). We received the rule on October 2, 2026. It was published in the *Federal Register* on October 2, 2026. 91 Fed. Reg. 62655. The effective date of the rule is December 1, 2026.

According to IRS, this rule contains temporary regulations that address the new nonrefundable Federal tax credit for qualified contributions to scholarship granting organizations made in 2027 and later taxable years to fund qualified elementary and secondary education scholarships. IRS stated that the temporary regulations implement certain requirements and procedures for states that make elections to participate in this Federal tax credit and organizations that have been certified as scholarship granting organizations by one or more participating states. IRS explained that the temporary regulations affect such states and organizations, and individuals who make qualified contributions to scholarship granting organizations.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date does not apply, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 5 U.S.C. § 808(2). In its submission to us, IRS stated that this rule is effective on December 1, 2026, and that this effective date complies with 5 U.S.C. § 801(a)(3)(A). However, in the rule, IRS both recognized the December 1, 2026, effective date, while also determining that good cause exists for making the rule immediately effective without notice and comment under the Administrative Procedure Act. 91 Fed. Reg. at 62655, 62662. IRS found that failure to make the rule effective prior to notice

and comment would be impracticable and contrary to the public interest since Congress intended for the tax credit to be available for taxpayers making contributions beginning in taxable year 2027, and therefore the rule must be issued promptly to allow enough time for organizations to submit the required documentation to states and for states to determine whether each organization is statutorily eligible for the credit. *Id.* at 62662.

Enclosed is our assessment of IRS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Oluwafunmilayo Taylor
Section Chief
Internal Revenue Service

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE
ENTITLED
“FEDERAL SCHOLARSHIP TAX CREDIT”
(RIN: 1545-BS17)

(i) Cost-benefit analysis

The Department of the Treasury, Internal Revenue Service (IRS) prepared an analysis of the costs and benefits of this rule, as published in the corresponding notice of proposed rulemaking (NPRM) at 91 Fed. Reg. 62818, 62836–47 (Oct. 2, 2026). 91 Fed. Reg. 62655, 62663 (Oct. 2, 2026). According to the NPRM, the rule provides clarity to operationalize the credit available for qualified contributions under section 25F of the Internal Revenue Code. *Id.* at 62838. IRS stated that this clarity is expected to benefit the up to 2 million students who are expected to receive a scholarship annually. *Id.* IRS summarized the economic benefits of the rule to include a reduced tax burden of up to \$11 billion annually, in the aggregate, for affected donors; \$540 million in saved eligibility verification costs annually; \$4 billion in additional funds donated to Scholarship Granting Organizations each year; significant increases in market efficiency; and the facilitation of section 25F credit integrity and the proper use of funds. *Id.* at 62846–47. In terms of costs, IRS noted that it does not have the data or models to precisely determine the indicated effects of various aspects of the rule but was able to estimate that the rule’s audit requirements would cost between \$12 million and \$15 million per year. *Id.*

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

IRS noted that the discussion concerning the applicability of the Act to this rule can be found in the rule’s NPRM. 91 Fed. Reg. at 62665. In the NPRM, IRS stated that the Treasury Department and IRS have not determined whether the proposed regulations, when finalized, will have a significant economic impact under the Act on a substantial number of small entities. *Id.* at 62850. IRS stated, however, that because there is a possibility that the rule will have a significant economic impact on a substantial number of small entities, IRS included an initial regulatory flexibility analysis in the proposed regulations. *Id.*

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

The Treasury Department and IRS concluded that the temporary regulations in this rule, and the corresponding NPRM, do not include any Federal mandate that may result in expenditures by state, local, or tribal governments, or by the private sector, in excess of the Act’s threshold. 91 Fed. Reg. at 62666.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On October 2, 2026, IRS published an NPRM. 91 Fed. Reg. 62818. In the rule, IRS stated that comments are being solicited in the NPRM and that any comments will be considered before final regulations are issued. *Id.* at 62663.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

IRS determined that this rule contains information collection requirements under the Act. 91 Fed. Reg. at 62663.

Statutory authorization for the rule

IRS promulgated this rule pursuant to section 25F(h) of the Internal Revenue Code, as added by section 70411 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), as well as pursuant to section 7805(a) of the Code.

Executive Order No. 12866 (Regulatory Planning and Review)

IRS stated that the Office of Information and Regulatory Affairs has determined that this rule and the corresponding NPRM are economically significant and subject to review under the Order and that the Office of Management and Budget has reviewed the rule. 91 Fed. Reg. at 62663.

Executive Order No. 13132 (Federalism)

IRS concluded that this rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Order. 91 Fed. Reg. at 62666.