

Congress of the United States
Washington, DC 20515

October 6, 2026

The Honorable Scott Bessent
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Bessent:

We write today to express our strong objection to a provision included in the Treasury Department's recently issued proposed regulations on new Internal Revenue Code section 25F (the "Proposed Regulations"). The provision in question continues this Treasury's pattern of ignoring clear Congressional mandates, in an effort to benefit your wealthy and well-connected friends and donors.

New Code section 25F provides for a dollar-for-dollar tax credit with respect to donations made to "scholarship granting organizations." It was a blatant attempt to funnel taxpayer funds away from public education and use it to subsidize the private school education of children from wealthy families. To be clear, although we disagree with the policy that underlies the entirety of this provision, section 25F is duly enacted law.

However, as Congress often does, it placed a limit on the value of the credit. Section 25F(b)(1) states, as plainly as can be, "[t]he credit allowed under subsection (a) to any taxpayer for any taxable year shall not exceed \$1,700."¹

The Treasury Department interpreted that clear statutory rule thusly:

The Treasury Department and the IRS interpret section 25F to limit the credit amount that may be claimed to \$1,700 per individual taxpayer, allowing married couples filing jointly to potentially claim up to \$3,400 on their joint tax return provided that each spouse has made qualified contributions of up to \$1,700.

The justification for this violation of Federal law was simply that "[t]his interpretation is consistent with other instances in which a joint return is treated as consisting of two individual taxpayers."

¹ See also *Joint Committee on Taxation*, General Explanation of the Tax Provisions of Public Law 119-21 (*JCS-1-26*) 134 (May 2026) ("The credit allowed to a taxpayer for a taxable year may not exceed \$1,700. The same \$1,700 limit applies to single and joint filers.").

In reality, this interpretation is wildly inconsistent with the longstanding treatment of other provisions that use identical or near-identical language. This throws doubt upon Treasury's interpretation of many provisions of the Code, creates a great deal of uncertainty in the administration of our tax laws, and could balloon the deficit by increasing the cost of the credit by a magnitude of six to \$150 billion over the next decade².

Accordingly, we ask that you provide written responses to the following questions:

1. Please confirm that you understand that Congress, and only Congress, is responsible for writing the tax laws.
2. Please confirm that you understand that when Congress has spoken with clear and unambiguous language, the Treasury Department has no authority to deviate from that language in its interpretive guidance.
3. In light of your interpretation of the term "taxpayer" in Code section 25F, please tell us, in the case of a married couple filing a joint return, what is the maximum amount of employment-related expenses that can be taken into account under IRC 21(c)(1) and (2), assuming that each spouse independently spent at least \$3,000 (in the case of a couple with one qualifying child), and \$6,000 (in the case of a couple with more than one qualifying child). If your answer to this question is anything other than \$6,000 and \$12,000, respectively, please explain how the statutory language in section 21 provides for a different definition of "taxpayer" in the context of married filers than the language in section 25F.
4. In light of your interpretation of the term "taxpayer" in Code section 25F, please tell us, in the case of a married couple filing a joint return, what is the maximum amount of qualified adoption expenses that can be taken into account under IRC 23(b)(1), assuming both spouses incurred expenses in excess of \$10,000? If your answer to this question is anything other than \$20,000, please explain how the statutory language in section 23 provides for a different definition of "taxpayer" in the context of married filers than the language in section 25F.
5. In light of your interpretation of the term "taxpayer" in Code section 25F, please tell us, in the case of a married couple filing a joint return, what is the maximum value of the child tax credit for a couple with one child? If your answer is anything other than \$4,400, please explain how the statutory language in section 24, which provides that a credit is allowed "with respect to each qualifying child of the taxpayer", provides for

² Becker, B. (2026, October 2). *IRS jobs: Safe?* Politico Pro.
<https://subscriber.politicopro.com/newsletter/2026/10/irs-jobs-safe-01104249>

a different definition of “taxpayer” in the context of married filers than the language in section 25F.

6. In light of your interpretation of the term “taxpayer” in Code section 25F, please tell us, in the case of a married couple filing a joint return, what is the current maximum allowable deduction under section 164 in the case of a couple where each spouse paid state and local taxes in excess of \$40,400? If your answer is anything other than \$80,800, please explain how the statutory language in section 164, which refers to the limitation on deductibility as being applicable “in the case of an individual”, provides a different answer than your interpretation in section 25F. Specifically, is it Treasury’s contention that Congress’s use of the phrase “in the case of an individual” is meant to indicate either an individual alone or both the individual and their spouse together, where, per your interpretation of Code section 25F, Congress’s use of “a taxpayer” is meant to indicate each individual spouse separately, even if they file a joint return? Please provide any authority you have for such a counter-intuitive interpretation.
7. In light of your interpretation of the term “taxpayer” in section 25F, do you plan on issuing new guidance with respect to the hundreds of Code provisions that provide limitations on tax benefits based on the “adjusted gross income of the taxpayer”? Is it your expectation, now that you have interpreted the term “taxpayer” to refer to each spouse individually, that taxpayers are required to individually compute their separate income for purposes of these limitations? At what point can taxpayers expect guidance on these new rules?
8. Please list all Internal Revenue Code provisions for which taxpayers might take a return position that is different from that which is laid out in previously listed guidance, forms and publications, based on your interpretation of the term “taxpayer” in section 25F.
9. The Treasury Department released data touting that it expects taxpayers to claim “nearly \$26 billion in qualified contributions annually” in credits under section 25F by 2030. Please provide us with Treasury’s estimate of what that annual number would be if Treasury had upheld the law as written, limiting the tax credit to \$1,700.
10. We have trouble believing that the hard-working professionals at the Treasury Department, most of whom are immensely talented tax lawyers, accountants and economists, would have advanced this specious interpretation of the tax law. In fact, we are willing to bet that they are ashamed to be affiliated with it. Accordingly,

please provide us with the draft of the Proposed Regulations that was sent to the Office of Information and Regulatory Affairs (OIRA), prior to that office's input.

11. Please provide the names of all individuals at OIRA who participated in the evaluation of the Proposed Regulations.
12. Please provide the name of any Member of Congress who communicated with the Treasury Department regarding the Treasury Department's interpretation of section 25F, and whether that Member of Congress specifically advocated for the interpretation of "taxpayer" that the Treasury Department has provided for in its Proposed Regulations.

We look forward to receiving your prompt response on this matter of significant importance.

Sincerely,

A handwritten signature in blue ink, reading "Richard E. Neal".

The Honorable Richard E. Neal
Ranking Member
Committee on Ways and Means

A handwritten signature in blue ink, reading "Ron Wyden".

The Honorable Ron Wyden
Ranking Member
Committee on Finance