

**Illinois Department of Revenue
Regulations**

Title 86 Part 1000 Section 200	Invest in Kids Act: Program Overview and Award of Credits
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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 1000
INVEST IN KIDS ACT

Section 1000.200 Invest in Kids Act: Program Overview and Award of Credits

- a) Program Overview. The Act authorizes taxpayers, subject to specific limitations and requirements, to receive an income tax credit for qualified contributions made to scholarship granting organizations. Taxpayers wishing to make qualified contributions must first apply to the Department for approval to make qualified contributions. Once approved, taxpayers are issued contribution authorization certificates by the Department, which must be provided to scholarship granting organizations by taxpayers when making their qualified contributions. A scholarship granting organization must apply to the Department for approval before it can issue certificates of receipt to taxpayers making qualified contributions. Certificates of receipt issued to the taxpayer by an SGO may be used to document the tax credit claimed by the taxpayer under subsection (b).

- b) Award of Credits by the Department – Requirements and Limitations. *The Department shall award credits against the tax imposed under Section 201(a) and (b) of the Illinois Income Tax Act to taxpayers who make qualified contributions. The credit shall be equal to 75% of the total amount of qualified contributions made by the taxpayer during a taxable year, not to exceed a credit of \$1,000,000 per taxpayer (i.e., total qualified contributions made by a taxpayer for which a credit may be obtained may not exceed \$1,333,333 during a taxable year).*
 - 1) *The aggregate amount of all credits the Department may award in any calendar year may not exceed \$75,000,000 (i.e., the total qualified contributions made by all taxpayers for which credits may be obtained may not exceed \$100,000,000 in the aggregate during a taxable year).*

 - 2) *Contributions made by corporations (including subchapter S corporations), partnerships, and trusts may not be directed to a particular subset of schools, a particular school, a particular group of students, or a particular student. Contributions made by corporations (including subchapter S corporations), partnerships, and trusts must specify a region under subsection (b)(10) to which the contribution will be directed. Contributions made to a scholarship granting organization without conditions will satisfy the requirements of this subsection (b)(2). An SGO may refuse contributions from corporations (including subchapter S corporations), partnerships, and trusts that, if accepted, may damage the SGO's reputation, cause the rescission of past contributions, or affect the SGO's ability to obtain future contributions.*

- 3) *Contributions made by individuals may be directed to a particular subset of schools or a particular school but may not be directed to a particular group of students or a particular student.* Contributions made by individuals must specify a region under subsection (b)(10) to which the contribution will be directed. An SGO may refuse contributions from individuals that, if accepted, may damage the SGO's reputation, cause the rescission of past contributions, or affect the SGO's ability to obtain future contributions.
- 4) To comply or remain in compliance with the requirements of this Part, SGOs are permitted to return all or any part of a contribution to an individual contributor that has made a contribution directed to a particular subset of schools or a particular school. To avoid the possibility of the return of his or her contribution, a taxpayer may, at the time of making the contribution or upon notification a contribution will be returned to him or her by the SGO, grant the SGO additional options for use of the contribution. The taxpayer may allow the SGO, for example, to:
 - A) use the contribution to award scholarships to eligible students to attend an alternative school or schools selected by the taxpayer in the same region;
 - B) use the contribution to award scholarships to eligible students to attend any qualified school in the same region;
 - C) transfer the funds to another SGO in the region, with the permission of the Department;
 - D) on and after June 1, in addition to the options in subsections (b)(4)(A) through (C):
 - i) use the contribution to award scholarships to eligible students to attend an alternative school or schools selected by the taxpayer in another region;
 - ii) use the contribution to award scholarships to eligible students to attend any qualified school in another region; or
 - iii) transfer the funds to an SGO in another region, with the permission of the Department.
- 5) If an individual taxpayer has made a contribution directed to a particular subset of schools or a particular school and the individual taxpayer determines that the SGO has not received any applications for scholarships for the particular subset of schools or a particular school, or the SGO notifies the individual taxpayer that the SGO has not received any applications for scholarships for the particular subset of schools or a particular school, the taxpayer may:
 - A) request the return of the contribution, provided that the SGO has not issued the taxpayer a COR;
 - B) permit the SGO to use the contribution to award scholarships to eligible students to attend an alternative school or schools in the same region selected by the taxpayer;

- C) permit the SGO to use the contribution to award scholarships to eligible students to attend any qualified school in the same region;
 - D) authorize the SGO to transfer the funds to another SGO in the region, with the permission of the Department;
 - E) on and after June 1, in addition to the options in subsections (b)(5)(A) through (D):
 - i) use the contribution to award scholarships to eligible students to attend an alternative school or schools selected by the taxpayer in another region;
 - ii) use the contribution to award scholarships to eligible students to attend any qualified school in another region; or
 - iii) authorize the SGO to transfer the funds to an SGO in another region, with the permission of the Department.
- 6) If a taxpayer rescinds all or part of an authorized contribution for any reason, the SGO shall notify the Department of the name of the taxpayer who rescinded the contribution and the amount of the contribution that was rescinded. (See Section 1000.400(j).)
- 7) *Two individuals filing a joint return* or members of a unitary business group filing a combined return *shall be considered one taxpayer for purposes of making qualified contributions.* For instance, if two married individuals at the time of applying for a CAC intend to file a joint return, the maximum CAC the two individuals collectively can apply for is \$1,333,333, and the maximum credit allowed on the joint return is \$1,000,000. If two married individuals each contribute \$1,333,333 intending at the time of the contribution to file separate returns but subsequently file a joint return, the maximum credit allowed on the joint return is \$1,000,000.
- 8) *No credit shall be taken for any qualified contribution for which the taxpayer claims any portion as a federal income tax deduction.*
- EXAMPLE: A taxpayer makes a qualified contribution of \$100,000. The taxpayer takes an Invest in Kids credit on his State tax return in the amount of \$75,000. The taxpayer takes a federal income tax deduction for \$25,000. The Invest in Kids tax credit of \$75,000 will be disallowed.
- 9) A taxpayer that has received a CAC may not direct a donor advised fund to make a contribution to an SGO on behalf of the taxpayer. A donor advised fund is a charitable organization exempt from income tax under Internal Revenue Code section 501(c)(3); a taxpayer receives a charitable deduction at the time a contribution is made by the taxpayer to the fund.
- 10) *Credits shall be awarded in a manner that is geographically proportionate to enrollment in recognized non-public schools in Illinois.* [35 ILCS 40/10] For

purposes of awarding credits in a manner that is geographically proportionate to enrollment in recognized non-public schools, the State of Illinois shall be divided into 5 regions. The boundaries of the regions shall be coterminous with the districts established for the Illinois Appellate courts. See Section 1000.Illustration A for a listing of counties in each region.

- A) On or before December 1 of each year, the State Board of Education shall provide the Department with a list of non-public schools that are recognized under Section 2-3.25o of the School Code. This list shall contain enrollment numbers for each recognized non-public school, and shall be used by the Department to determine enrollment in recognized non-public schools in each region for purposes of calculating the geographic distribution of credits. The Department will not adjust the geographic distribution of credits during a calendar year to reflect the addition of non-public schools that are recognized under Section 2-3.25o of the School Code by the State Board of Education after December 1.
- B) For purposes of awarding credits in a manner that is geographically proportionate to enrollment in recognized non-public schools, the Department shall track the amount of qualified contributions designated in each region by taxpayers. (See Section 1000.400(c)(3).)
- C) If the \$75,000,000 cap in aggregate credits that can be awarded by the Department (i.e., \$100,000,000 in qualified contributions made by taxpayers) is not reached by June 1 of a given year, the Department shall award contribution authorization certificates for the remaining credits on a first-come, first-served basis, without regard to the requirement that the credits be awarded in a manner that is geographically proportionate to enrollment in recognized non-public schools.