



October 11, 2018

Internal Revenue Service
CC: PA: LPD: PR (REG-112176-18)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Re: Proposed Rule – Contributions in Exchange for State or Local Tax Credits

To All Concerned Parties:

The Southeastern Council of Foundations, along with the undersigned organizations, respectfully submits the following comments to the Internal Revenue Service (IRS) in response to the proposed rulemaking, “Contributions in Exchange for State or Local Tax Credits” as published in the Federal Register on August 27, 2018. We ask the IRS to consider limiting the final regulations to those charitable contributions defined under section 170(c)(1).

The Southeastern Council of Foundations (SECF) is one of the nation’s largest regional associations of grantmakers, serving more than 330 of the most dynamic foundations and corporate giving programs in the South. SECF works in partnership with members in 11 Southeastern states to serve, strengthen, promote and champion the South’s philanthropic voice and infrastructure through engaging programming, leadership development training, access to unique resources and invaluable connections. By encouraging insightful philanthropic collaboration, SECF creates opportunities to increase the region’s grantmaking impact and empower transformational community change.

SECF asserts that proposed IRS regulations will drive down corporate and individual contributions to legitimate charities and virtually eliminate certain state and local tax (SALT) credits throughout the Southeast received from charitable contributions. This, on the heels of tax legislation that significantly reduced the availability of the charitable deduction, affecting millions of Americans, would have a severe impact on the ability of foundations to support their communities.

Specifically, proposed regulations under IRC section 170 provide that if a donor makes a payment or transfer of property to or for the use of any entity listed in section 170(c), the amount of the donor’s charitable contribution deduction under section 170(a) is reduced by the amount of any SALT credit that the taxpayer receives or expects to receive in consideration for the donor’s payment or transfer.

States like Georgia, where there is a tax credit for donations to public schools, and South Carolina, where there is an educational tax credit for exceptional needs children, would be impacted by this proposed rule. Additionally, in states like Kentucky and Mississippi, tax credits and proposed tax credits to qualified endowed funds would be negatively impacted by the proposed rule. It is important to note that these programs exist for legitimate charitable purposes and were not created to allow taxpayers to avoid a cap on the SALT deduction.

While well intentioned, the proposed rule as written will create considerable collateral damage to many programs across the Southeast and the country that allow well-meaning state or local tax credits when a taxpayer makes a donation to entities like those mentioned above.

To that end, SECF and the undersigned organizations encourage the IRS to consider limiting the final regulations to those charitable contributions defined under section 170(c)(1). A charitable contribution, as defined in section 170(c)(1), includes “a contribution or a gift to or for the use of a state, a possession of the United States, or any political subdivision of either, as long as such contribution or gift is made exclusively for public purposes.” In this way, legitimate charities will not be impacted by these new rules. If you have any questions, concerns, or would like more clarity, please feel free to contact us.

Sincerely,

Matthew L. Evans
Director of Public Policy
Southeastern Council of Foundations

On behalf of the following organizations:

The Georgia Center for Nonprofits

The South Carolina Grantmakers Network

The Community Foundations Network Affinity Group
Mississippi Association of Grantmakers

Together SC