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ABOUT

IRS Taking Comment on Profitable Tax Shelter Abused in Virginia

The Internal Revenue Service (IRS) is taking public comment on a recently proposed regulation that makes needed improvement to the federal tax deduction for charitable gifts. The proposed rules will assist in curbing the “double dipping” that occurs when filers in Virginia receive federal and state charitable giving deductions in addition to a state tax credit for the same donation, sometimes generating tax savings greater than the actual donation. This rule clarifies that only the portion of a donation that does not earn a tax credit can be deducted.

As written, the proposal includes private school donation credits offered by states like Virginia’s Education Improvement Scholarship Tax Credits Program. Past TCI analysis has explained how taxpayers in Virginia have combined this tax credit with charitable giving deductions as a means to generate tax savings larger than their actual donations. The proposed IRS rules are an important step in upholding sound tax policy and the integrity of the charitable giving deduction by limiting its availability when the filer receives or expects to receive a corresponding state or local tax credit.

Yet some advocates are pushing to exclude tax credits for private school donations from the proposed regulation. It is essential that any overhaul of the federal tax treatment of state charitable tax credits include private school donation credits within its scope. Failure to do so would harm the integrity of the charitable giving deduction and would invite aggressive tax avoidance in states like Virginia that offer such credits.

Individuals and organizations have until October 11, 2018 to submit public comments on the proposed IRS regulation that helps ensure the federal charitable deduction is only granted for true charitable contributions, not profitable tax shelters.

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