

Memorandum

To: Revenue Interim Committee

From: Aaron McNay, Economist
Tax Policy and Research, Montana Department of Revenue

Date: April 14, 2020

Subject: Annual Report on Student Scholarship Organization Credit

Each year the department is required by 15-30-3112, MCA to make a report to the Revenue Interim Committee on the Student Scholarship Organization Credit. This memorandum briefly describes the Student Scholarship Credit and reports on the use of the credit over the previous three years.

Starting in tax year 2016, individuals and corporations were allowed to claim a credit for donations made to student scholarship organizations during the tax year. The credit was non-refundable and was equal to the amount of the donation, but could not exceed \$150 per taxpayer. The credit was limited to \$3 million in total donations each tax year, with the possibility of increasing the credit in future years. To claim the credit, a taxpayer must have donated the claimed funds directly to the student scholarship organization before the end of the tax year and could then claim the donation on their tax return.

In 2018, the Montana Supreme Court determined that the Student Scholarship Organization program and credit was unconstitutional. As the Montana Supreme Court ruled in late 2018, the department continued to allow taxpayers to claim the scholarship credit for tax year 2018. However, if the U.S. Supreme Court upholds the Montana Supreme Court decision, the department will not allow taxpayers to claim the credit starting in tax year 2018 and may require taxpayers who have claimed the credit to return the credit.

The Big Sky Scholarships organization was the only organization that was registered for the tax credit in tax years 2016, 2017 and 2018.

Based on tax records, the Student Scholarship Organization Credit was claimed on 188 personal income tax forms for tax year 2016, with 233 people claiming the credit. The total credit amount claimed on tax returns for 2016 was \$32,129. A total of \$28,482 credits were claimed on 175 income tax returns by 207 individuals in tax year 2017. There was a large decrease in the number of taxpayers claiming the credit in tax year 2018, with only 75 returns claiming the credit. The number of credits decreased as well, with only \$11,651 credits claimed for the tax year. The Montana Supreme Court ruling in 2018 was the likely cause for the decrease in credits claimed in tax year 2018.

Figure 1					
Tax Year	Returns Claiming Credits	Individuals Claiming Credits	Total Credits Claimed	Average Credit Amount Per Return	Average Credit Amount Per Individual
2016	188	233	\$32,129	\$171	\$138
2017	175	207	\$28,482	\$163	\$138
2018	75	88	\$11,651	\$155	\$132

Current tax records indicate that no corporations or passthroughs claimed the tax credit on their 2016 corporate tax returns. The number of corporate tax returns reporting the credit on their 2017 income tax returns is less than 10 and cannot be reported due to confidentiality concerns.