

SPEs Enable Qualified Individuals to Receive EITC/OSTC Tax Credits

The Pennsylvania Educational Improvement Tax Credit program (EITC) allows qualified businesses to fulfill their Pennsylvania state tax burden while supporting financial aid to eligible educational and scholarship programs. The Opportunity Scholarship Tax Credit (OSTC) program allows qualified businesses to fulfill their Pennsylvania state tax burden while supporting financial aid to eligible low-income students who reside in low-achieving school districts in Pennsylvania. Both of the programs require a two (2) year commitment in order to qualify for the maximum tax credit under both programs.

The EITC program awards tax credits to businesses that make contributions to certain educational organizations. The EITC and OSTC are direct, dollar-for-dollar tax credits applicable against the donor's Pennsylvania tax liabilities, not a tax deduction. If a business firm pays certain corporate taxes to the Commonwealth of Pennsylvania, the EITC program allows that business firm to contribute almost all of those tax dollars to a qualifying educational organization. Business firms that apply and qualify for the EITC program receive a tax credit equal to Seventy-Five Percent (75%) of its donation to an approved non-profit scholarship or educational improvement organization. The tax credit increases to Ninety Percent (90%) if the business firm, commits to making the same level of donations for two consecutive years.

A business firm is a corporation, limited liability company or partnership that is organized as a for-profit entity. The statutory definition of "business firm" does not include sole proprietorships or entities not subject to Pennsylvania tax (non-profit entities or governmental entities). In 2014, the Commonwealth of Pennsylvania passed legislation that expanded the definition of a "business firm" to include special purpose entities (SPEs) formed specifically to participate in the EITC program or OSTC program. Typically, these SPEs are formed as a pass-through Limited Liability Company (LLC), the sole purpose of which is the making of contributions to qualifying scholarship or educational programs and whose members are comprised of owners or employees of other business firms.

Here is how this type of SPE works:

1. The entity will apply for EITC and/or OSTC tax credits from the Commonwealth of PA;
2. Once awarded, it seeks individual, qualified members with the goal of raising an amount equal to the number of tax credits it receives;
3. It requires a minimum investment and two-year commitment from each member;
4. It then contributes all invested dollars to EITC and OSTC-qualified organizations;
5. It receives a 90% tax credit (for a two year commitment) or 75% (for a one year commitment) from the Commonwealth of PA for those contributions, which it passes through to members on a pro-rata basis;
6. The donation may also qualify for a federal charitable income tax deduction based on the member's personal federal tax situation;
7. It provides K-1s and gift substantiation letters to members prior to the tax filing deadline; and
8. Additionally, it may allow members to designate which qualified organizations receive funds (specific individuals cannot be designated as beneficiaries of the donations).

Individuals who are owners of single member LLCs or are owners or employees of business entities are able to form their own SPE or join an existing SPE for the purpose of supporting Catholic education. It should be noted that interests in SPEs qualify as securities and are subject to the regulation of the United States Securities and Exchange Commission and the Pennsylvania Securities Commission. Individuals interested in forming their own SPE are encouraged to seek qualified legal counsel for assistance with compliance with applicable laws and regulations.

More information on SPEs, including a copy of the Pennsylvania Department of Revenue ruling pertaining to SPE eligibility to participate in EITC and OSTC programs, may be found by clicking on the *WAYS TO SUPPORT CATHOLIC EDUCATION* link at www.diopitt.plannedgiving.org. The link is in the upper left-hand corner of the home page.

This information is not intended as legal or tax advice. Persons interested in exploring SPEs as a means to support Catholic education in the Commonwealth of PA should consult their personal advisors for guidance.