

## Part III – Administrative, Procedural, and Miscellaneous

### Request for Comments on Individual Tax Credit for Qualified Contributions to Scholarship Granting Organizations

Notice 2025-70

#### SECTION 1. PURPOSE

The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations (forthcoming proposed regulations) to implement new § 25F of the Internal Revenue Code (Code),<sup>1</sup> as added by § 70411 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA). Section 25F provides a new credit for an individual's qualified contribution to a scholarship granting organization (as defined in § 25F(c)(5)) (SGO) that provides qualified elementary and secondary scholarships. In anticipation of issuing the forthcoming proposed regulations, this notice requests comments regarding issues arising under § 25F that should be addressed in guidance, emphasizing issues on which guidance is most quickly needed, including issues relating to the annual certification by a State<sup>2</sup> and SGO requirements. Comments detailing factual situations that differ from those addressed in this notice, and the application of the statute to these factual situations, would be especially helpful in the development of the forthcoming proposed regulations.

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<sup>1</sup> Unless otherwise provided, all "section" or "§" references are to sections of the Code.

<sup>2</sup> Pursuant to § 25F(c)(1), for purposes of this notice, the term "State" means one of the 50 States or the District of Columbia.

## SECTION 2. BACKGROUND

.01 Overview of § 25F Credit. Section 25F provides a nonrefundable income tax credit (§ 25F credit) allowable to a taxpayer for qualified contributions to SGOs made by an individual who is a citizen or resident of the United States (within the meaning of § 7701(a)(9)). Section 25F(c)(3) defines a “qualified contribution” as a charitable contribution of cash to an SGO that uses the contribution to fund scholarships for eligible students (as defined in § 25F(c)(2)) solely within the State in which the organization is listed pursuant to § 25F(g). In order for a contribution made by a taxpayer to an SGO in a State to be a qualified contribution eligible for a § 25F credit, the State must have voluntarily elected to participate under § 25F and must have identified the SGO as one that satisfies the requirements of § 25F(c)(5) for the applicable calendar year in accordance with § 25F(g). See sections 2.04 and 3 of this notice regarding State lists and certifications necessary for State elections.

.02 Amount of § 25F Credit. Section 25F(a) provides that, in the case of an individual who is a citizen or resident of the United States (within the meaning of § 7701(a)(9)), there is allowed as a credit against the tax imposed by chapter 1 of the Code for the taxable year an amount equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year. The amount of the § 25F credit allowable to a taxpayer for a taxable year is subject to two limitations in § 25F(b). First, § 25F(b)(1) provides that the amount of the § 25F credit allowed to any taxpayer for any taxable year may not exceed \$1,700. Second, § 25F(b)(2) provides that the amount allowed as a § 25F credit for a taxable year is reduced by the amount allowed as a credit on any State tax return of the taxpayer for qualified contributions made by

the taxpayer during the taxable year. In addition, § 25F(e) prohibits a double benefit to a taxpayer by providing that any qualified contribution for which a § 25F credit is allowed cannot be taken into account as a charitable contribution for purposes of § 170.

Section 25F(f) provides for the carryforward of unused § 25F credit amounts. Section 25F(f)(1) provides that, if the § 25F credit allowable for any taxable year exceeds the limitation imposed by § 26(a) for such taxable year reduced by the sum of the credits allowable under §§ 21, 22, 24, 25, 25A, 25B, 25C, 25E, and 26, such excess is carried to the succeeding taxable year and added to the credit allowable under § 25F(a) for such taxable year. In addition, § 25F(f)(2) provides that no credit may be carried forward under § 25F(f) to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For this purpose, § 25F(f) provides that § 25F credits are treated as used on a first-in, first-out basis.

### .03 SGO Requirements.

(1) Section 25F(c)(5), An organization can qualify as an SGO only if it satisfies each requirement set forth in § 25F(c)(5). The SGO requirements under § 25F(c)(5) are that the organization must:

(a) be described in § 501(c)(3), be exempt from tax under § 501(a), and not be a private foundation;

(b) prevent the co-mingling of qualified contributions with other amounts by maintaining one or more separate accounts exclusively for qualified contributions;

(c) satisfy each of the requirements of § 25F(d); and

(d) be included on the list submitted for the applicable covered State under § 25F(g) for the applicable year. For this purpose, § 25F(c)(1) defines a “covered State” as “one of the States, or the District of Columbia,” that, for a calendar year, voluntarily elects to participate under § 25F and to identify the SGOs located in the State, in accordance with § 25F(g).

(2) Section 25F(d), The requirements in § 25F(d) that an SGO must satisfy are as follows:

(a) The organization must provide scholarships to 10 or more students who do not all attend the same school.

(b) The organization cannot spend less than 90 percent of its income on scholarships for eligible students.

(c) The organization cannot provide scholarships for any expenses other than qualified elementary or secondary education expenses. Section 25F(c)(4) defines a qualified elementary or secondary education expense as any expense described in § 530(b)(3)(A) (relating to Coverdell education savings accounts) of an eligible student. Section 530(b)(3)(A) identifies these expenses to include certain expenses incurred at, required by, or provided by a public, private, or religious school.

(d) The organization must provide scholarships to eligible students with a priority for:

(i) students awarded a scholarship the previous school year, and thereafter, and

(ii) any eligible students who have a sibling who was awarded a scholarship from such organization.

(e) The organization cannot earmark or set aside contributions for scholarships on behalf of any particular student.

(f) The organization must:

(i) verify the annual household income and family size of eligible students who apply for scholarships to ensure such students meet the area median gross income requirement of § 25F(c)(2)(A), and

(ii) limit the awarding of scholarships to eligible students who are members of a household for which the income does not exceed the amount established under § 25F(c)(2)(A).

(g) The organization cannot award a scholarship to any disqualified person, which § 25F(d)(2)(B) provides is determined pursuant to rules similar to the rules of § 4946 (relating to private foundations).

.04 State lists and certifications. Section 25F(g) provides that:

(1) Not later than January 1 of each calendar year (or, with respect to the 2027 calendar year, as early as practicable), a State that voluntarily elects to participate under § 25F must provide to the Secretary of the Treasury or the Secretary's delegate (Secretary) a list of the SGOs that meet the requirements described in § 25F(c)(5) and are located in the State (State list).

(2) The election under § 25F(g) must be made by the Governor of the State or by such other individual, agency, or entity as is designated under State law to make such elections on behalf of the State with respect to Federal tax benefits.

(3) Each State list must include a certification that the individual, agency, or entity submitting such list on behalf of the State has the authority to perform this function.

.05 Regulations and guidance. Section 25F(h) directs the Secretary to issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of § 25F, including regulations or other guidance:

(1) providing for enforcement of the requirements under § 25F(d) and (g),  
and

(2) with respect to recordkeeping or information reporting for purposes of administering the requirements of § 25F.

### SECTION 3. REQUEST FOR COMMENTS ON STATE LISTS AND CERTIFICATIONS

.01 Overview. Sections 3.02 and 3.03 of this notice describe the certification process currently envisioned by the Treasury Department and the IRS for covered States to elect to participate under § 25F in accordance with § 25F(g). The Treasury Department and the IRS request comments on all aspects of this certification process. Sections 3.04 through 3.06 of this notice set forth specific questions regarding particular aspects of the State certification process on which the Treasury Department and the IRS request comments.

.02 State election and list. Section 25F(g) provides that a State that voluntarily elects to participate under § 25F must provide to the Secretary a list of the SGOs that meet the requirements described in § 25F(c)(5) and are located in the State. Thus, the election by a State to participate under § 25F (State election) may be made prior to or contemporaneously with the submission of the State's list of those organizations. The Treasury Department and the IRS anticipate that the forthcoming proposed regulations would require each State electing to participate under § 25F for the 2027 calendar year to submit to the IRS, by a specified date before January 1, 2027, the State's list of organizations located in that State meeting the requirements of § 25F(c)(5) for the 2027 calendar year along with the State's certification under § 25F(g)(2). The forthcoming proposed regulations would include a similar requirement for submission of an annual list and certification from each electing State for subsequent years.

However, the Treasury Department and the IRS understand that potential SGOs may need sufficient time to prepare for the commencement of this new credit in 2027 and assurance that the State in which they are located will elect to participate under § 25F. Accordingly, the Treasury Department and the IRS intend to issue future published guidance providing States with the option to submit, beginning early in 2026, the State election to participate under § 25F for calendar year 2027.

The Treasury Department and the IRS anticipate that the forthcoming proposed regulations would require the State to electronically submit the State election, the State list and certification to the IRS, as an electronic submission is more efficient and timelier than paper submissions.

The Treasury Department and the IRS anticipate that the forthcoming proposed regulations would provide, consistent with § 25F(g)(1)(A), that the State list must include all organizations located in the State that have requested to be designated as an SGO and that meet the § 25F(c)(5) statutory requirements. However, the Treasury Department and the IRS do not anticipate that the forthcoming proposed regulations would prohibit an SGO from itself imposing additional governing provisions beyond the requirements imposed by § 25F(c)(5) unless such a provision would conflict with the ability of the SGO to satisfy such requirements.

The Treasury Department and the IRS anticipate that the forthcoming proposed regulations would provide that, if a donor makes a contribution to an organization that, at the time of the contribution, is on the list of organizations for that taxable year, the donor would generally be treated as having made a contribution to an SGO for purposes of § 25F. However, if the recipient organization is later determined not to qualify as an SGO, the IRS would not be precluded from disallowing a § 25F credit for any contribution made to that organization if the donor either was aware of, or was responsible to any extent for, the activities or deficiencies that gave rise to the organization's eventual loss of SGO status.

.03 Contents of State certification. The Treasury Department and the IRS interpret § 25F(g) as requiring each covered State to verify that each organization on the State's list satisfies all of the requirements of § 25F(c)(5). The Treasury Department and the IRS also understand that organizations seeking to satisfy the requirements to be an SGO for purposes of § 25F may be structured and/or operated in different ways. Specifically, some organizations may operate entirely within a single State, and some



may raise funds and award scholarships to eligible students in a region consisting of multiple States. The forthcoming proposed regulations would require covered States to verify information about each of these types of organizations that qualify as an SGO. Reliance by a covered State on self-certifications by SGOs would not be sufficient for this purpose. The Treasury Department and the IRS anticipate that the annual certification of the State's list that would be required of each covered State would include certification by the individual who, or an authorized representative of the agency or entity that, has authority to perform this function on behalf of the State, under penalties of perjury, of at least the following information:

(1) Identification and contact information: The name, IRS employer identification number (EIN), address, and telephone number of each organization on the State list; the name, title and contact information of the covered State's point of contact for this credit; and the identification of each organization as a State or multistate organization.

(2) Federal tax-exempt status: That each organization on the State list is currently described in § 501(c)(3) and exempt from tax pursuant to § 501(a), and is not a private foundation, as defined in § 509.

(3) No co-mingling: That each organization on the State list maintains one or more separate accounts exclusively for qualified contributions, as that term is defined in § 25F(c)(3), to prevent the co-mingling of qualified contributions with other amounts.

(4) Information regarding single-State organizations: If the organization is located solely in one State (single-State organization), then, in accordance with § 25F and any regulations thereunder, certification that the single-State organization:

(a) Provides scholarships to ten (10) or more students in that State who do not all attend the same school;

(b) Spends not less than ninety (90) percent of its income on scholarships for eligible students, as that term is defined in § 25F(c)(2);

(c) Does not provide scholarships for any expenses other than qualified elementary or secondary education expenses, as that term is defined in § 25F(c)(4);

(d) Selects students receiving scholarships only from among eligible students who reside in that State, and only from among eligible students who are members of a household for which the income does not exceed the amount established under § 25F(c)(2)(A), and by giving priority first to those who received a scholarship from the organization for the previous school year, and then those who have a sibling who received a scholarship from the organization for the previous school year;

(e) Does not earmark or set aside contributions for scholarships on behalf of any particular student; and

(f) Does not award a scholarship to any disqualified person, as defined for purposes of § 25F(d)(2).

(5) Information regarding multistate organizations: If the organization is not solely located in one State and grants scholarships in more than one State (multistate organization), then certification that the multistate organization:

(a) Funds scholarships to eligible students in the State providing the certification;

(b) Requires donors to designate the State, on whose State list the organization is named, in which their qualified contribution is to be used;

(c) Tracks and matches qualifying contributions that are designated by the donor to be spent within the State with scholarships to eligible students within the State; and

(d) Satisfies each of the requirements for single-State organizations in the State, as set forth in section 3.03(4) of this notice.

(6) State policies and procedures: That the State has adopted, and is complying with, policies and procedures designed to enable the State to make its own independent determination that each organization on the State list is required by the organization's organizational documents or bylaws to satisfy, and is operating in a manner that satisfies, each of the requirements of § 25F(c)(5), as provided in section 2.03 of this Notice. With respect to a State's independent determination that an organization is described in § 501(c)(3) and exempt from tax under § 501(a), and is not a private foundation, policies and procedures that include, for example, consideration of whether the organization is identified as an exempt organization with 501(c)(3) status (and not a private foundation) in the EO BMF Extract available on irs.gov

(<https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>) would be sufficient for purposes of § 25F(c)(5)(A).

(7) Notification to the IRS of removal from State list: That the State will promptly notify the IRS of any determination by the State that an organization listed on its State list is being removed from its State list and the effective date of removal.

(8) Applicable State tax credits: If applicable, that, for the calendar year for which the State list is submitted to the IRS, the State offers a tax credit for qualified contributions pursuant to State law, and a description of that credit including relevant State statutes, regulations, and other authoritative guidance.

(9) Authority to act on behalf of State: That the individual, agency, or entity submitting the election, the list, and these certifications on behalf of the State has the authority to perform this function.

.04 Request for comments on State policies and procedures. Section 25F(g) requires that a State that voluntarily elects to participate under § 25F must provide to the Secretary a list of the SGOs “that meet the requirements” described in § 25F(c)(5) and are located in the State. The Treasury Department and the IRS anticipate that States will be required to have implemented, and to comply with, various procedures to verify that the required information submitted by the covered State is accurate and complete.

(1) What types of uniform policies, procedures, recordkeeping or other requirements would be reasonable to help ensure that a State will be able to reliably verify that each SGO meets each of the requirements in § 25F(c)(5)?

(2) For States already participating in State-level programs similar to § 25F, how do those States determine that organizations are meeting the applicable State requirements?

.05 Request for comments on “located in the State.” Section 25F(g)(1)(A) requires the State list to identify the SGOs that meet the requirements described in § 25F(c)(5) and are “located in the State.”

(1) How should “located” be defined for this purpose? Should organizations that are authorized to operate in the State be considered located in the State?

(2) For States that currently offer tax credits for contributions to scholarship awarding entities, are there jurisdictional or other similar nexus requirements that an organization must satisfy in order for contributions to the organization to qualify for the State tax credit?

.06 Request for comments on State tax credit offset. Section 25F(b)(2) requires that the amount of a § 25F credit allowed under § 25F must be reduced by the amount allowed as a State tax credit for qualified contributions made by the taxpayer during the taxable year. What information can a State provide to the IRS, consistent with applicable State law, to ensure taxpayer compliance with this requirement?

#### SECTION 4. REQUEST FOR COMMENTS REGARDING SGO REQUIREMENTS

.01 Request for comments regarding income. Section 25F(d)(1)(B) requires an SGO to spend “not less than 90 percent of the income of the organization on scholarships for eligible students.” The Treasury Department and the IRS anticipate

that the forthcoming proposed regulations would provide that the income of the organization includes all income of the organization, including unrelated business income, and is not limited to qualified contributions segregated in the separate account(s) described in § 25F(c)(5)(B).

(1) Does this interpretation of income pose practical challenges for SGOs? If so, what alternative interpretation would be allowed under the statute, and why would any alternative interpretation be a superior reading of the statute?

(2) Should forthcoming proposed regulations address potential fluctuations in income and expenses, such as potential start-up costs to the organization in its first year of operation or the smoothing of this calculation over a certain number of years?

.02 Request for comments on multistate organizations. The Treasury Department and the IRS are aware that organizations may fundraise and award scholarships in more than one State (see section 3.03(5) of this notice). However, § 25F(c)(3) requires that a qualifying contribution must be used to fund scholarships for eligible students “solely within the State in which the organization is listed.”

(1) As noted above, the Treasury Department and the IRS anticipate that the forthcoming proposed regulations would require a multistate organization to ask donors to designate the State in which the donor intends the qualified contribution to be used. If a donor does not designate a particular State, what rules should apply?

(2) For a multistate organization, should the requirement that it provide scholarships to 10 or more students who do not all attend the same school apply with

respect to scholarships provided by the organization in all states in the aggregate or on a state-by-state basis?

(3) For a multistate organization, should the requirement that it spend not less than 90 percent of its income on scholarships for eligible students apply with respect to the organization's operations in all states in the aggregate or on a state-by-state basis? If the latter, how should the organization's income be allocated for this purpose?

(4) For a multistate organization, should satisfaction of the following requirements be analyzed with respect to all states on whose State list it appears, or on a state-by-state basis:

(a) does not provide scholarships for any expenses other than qualified elementary or secondary education expenses,

(b) provides a scholarship to eligible students with a priority for students awarded a scholarship the previous school year, and then for any eligible students who have a sibling who was awarded a scholarship from such organization,

(c) does not earmark or set aside contributions for scholarships on behalf of any particular student,

(d) verifies the annual household income and family size of eligible students who apply for scholarships to ensure the annual household income of such students does not exceed 300 percent of area median gross income (as such term is used in § 42), and limits the awarding of scholarships to eligible students who are a member of a household whose income does not exceed such income limit, and

(e) does not engage in self-dealing?

.03 Request for comments on other fact patterns. The Treasury Department and the IRS are aware that there currently are organizations operating in other ways or under other fact patterns that may wish to qualify as SGOs. For example, there currently are “fundraising organizations” raising funds to provide scholarships that, instead of awarding scholarships themselves, make distributions to other organizations that may be defined as SGOs. In addition, there are organizations that operate in States with State tax credits similar to the § 25F credit that may want to qualify as SGOs described in § 25F(c)(5) but currently have structures or operations not expressly addressed in this notice. The Treasury Department and the IRS request additional information regarding such organizations and whether they could satisfy all of the requirements of § 25F(c)(5).

.04 Request for comments on definition of disqualified person. Section 25F(d)(2) prohibits an SGO from awarding a scholarship to any “disqualified person” and provides that, for this purpose, a disqualified person is determined pursuant to rules similar to the rules of § 4946 (relating to private foundations). Section 4946 provides that “substantial contributors” to a private foundation are considered disqualified persons. For purposes of § 4946, a “substantial contributor” includes any person that made contributions during the taxable year in the aggregate of at least \$5,000, if that amount is more than 2 percent of the total contributions the foundation or organization received from its inception through the end of the taxable year in which that person’s contributions were received.



(1) The Treasury Department and the IRS are considering whether the forthcoming proposed regulations should propose to modify this definition, for purposes of § 25F, to state that the term “substantial contributor,” with respect to an SGO, means any person who contributed an aggregate amount of more than 2 percent of the total contributions received by the SGO from its inception through the end of the taxable year in which that person’s contributions were received. The Treasury Department and the IRS request comments on this potential definition and whether any alternative interpretation would be a superior reading of the statute.

(2) The Treasury Department and the IRS expect that the forthcoming proposed regulations would provide that an individual who is a member of the SGO’s selection committee, or part of the immediate family of such a member, is a disqualified person with respect to that SGO. Under what circumstances should such an individual not be considered a disqualified person for purposes of the § 25F credit?

.05 Request for comments on reporting and recordkeeping requirements.

(1) Pursuant to the authority provided by § 25F(h), the Treasury Department and the IRS anticipate issuing guidance that would require organizations seeking to satisfy the requirements to be an SGO to report certain information to the IRS and to retain certain records to ensure that the requirements of § 25F are met. This required reporting and recordkeeping may include the following information:

(a) Information on an IRS form or schedule pertaining to § 25F to be filed annually by the organization with the IRS;

(b) Information on each qualified contribution received by the organization, including the donor's taxpayer identification number, to facilitate comparison with the donor's Federal tax credit claimed; and

(c) Information on each scholarship recipient awarded a scholarship by the organization, to ensure that each recipient meets the requirements of § 25F.

(2) These reporting requirements would apply to charitable organizations seeking to satisfy the requirements to be an SGO that may not normally be required under § 6033 to file an annual return with the IRS. These reporting requirements also would apply to subordinate organizations recognized as tax-exempt under § 501(c)(3) on the basis of a group exemption letter issued to a central organization.

(a) How should reporting and recordkeeping requirements be designed to balance the IRS's need for information for Federal income tax administration purposes with the burden imposed on the reporting organizations?

(b) Is there any current reporting by such organizations of such information to States, and, if so, what is reported and what form does the reporting take?

(c) Under what circumstances, if any, would relief from these requirements be justified?

(3) Section 25F(c)(2)(A) defines an "eligible student" as an individual who is a member of a household with an income that, for the calendar year prior to the date of the application for a scholarship, is not greater than 300 percent of the area median gross income (as such term is used in § 42). How should an SGO verify this

information? For example, should the SGO require the eligible student to provide a copy of the most recently filed Federal income tax return (Form 1040, *U.S. Individual Income Tax Return*) that was filed for each member of the household with a Federal tax return filing requirement? Should additional information be required? If any member of the household of the eligible student did not have a Federal return filing requirement, how should the SGO verify such household member's income?

(4) Section 25F(c)(5)(B) prohibits an SGO from co-mingling qualified contributions with other amounts and requires that it maintain one or more separate accounts exclusively for qualified contributions.

(a) At the time of a donation, what kind of information would allow the SGO to determine that the cash is intended to be a qualified contribution entitling the donor to a credit under § 25F that thus needs to be segregated?

(b) Should the donor be required to provide this information to the SGO in order to take the § 25F credit?

(c) Should the SGO be required to provide the donor with written substantiation in order for the donor to take the § 25F credit?

(5) What information should an SGO be required to provide to its donor?

(a) Should the SGO be required to inform the donor that only the first \$1,700 of qualified contributions to SGOs may entitle the donor to a § 25F credit?

(b) Should the SGO be required to inform the donor that additional amounts over the first \$1,700 may qualify for a Federal tax deduction under § 170 (but

that any qualified contribution for which a § 25F credit is allowed may not be taken into account as a charitable contribution for purposes of § 170)?

(c) Should the SGO be required to inform the donor that any § 25F credit must be reduced by any credit on any State tax return of the taxpayer for qualified contributions made by the taxpayer during the taxable year. If so, when should the SGO be required to inform the donor of the requirement to reduce the § 25F credit by any such State credit?

(6) For a multistate organization (see sections 3.03(5) and 4.02 of this notice), what types of reporting and recordkeeping requirements could allow the organization to demonstrate that it satisfies, for each State on whose State list it appears, the requirements of § 25F(c)(5), including that at least 90 percent of its income allocated to a State is spent on scholarships within that State?

(7) For multistate organizations, if such an organization could be eligible to be listed on one or more State lists as an SGO, what recordkeeping or other requirements could allow such an organization to establish that contributions to it qualify as contributions to an SGO defined in § 25F(c)(5)?

## SECTION 5. SUBMISSION OF COMMENTS

.01 Written comments should be submitted on or before December 26, 2025. Consideration will be given, however, to any written comment submitted after December 26, 2025, if such consideration will not delay the issuance of guidance. The subject line for the comments should include a reference to Notice 2025-70. Comments may be submitted in one of two ways:

(1) Electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (type IRS-2025-0466 in the search field on the regulations.gov homepage to find this notice and submit comments).

(2) Alternatively, by mail to: Internal Revenue Service, CC:PA:01:PR (Notice 2025-70), Room 5503, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

.02 All commenters are strongly encouraged to submit comments electronically. The Treasury Department and the IRS will publish for public availability any comment submitted electronically, or on paper, to its public docket on [www.regulations.gov](http://www.regulations.gov).

## SECTION 6. DRAFTING INFORMATION

The principal author of this notice is Edward Waters of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this notice, please contact Mr. Waters at (202) 317-7009 (not a toll-free call).