

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME
SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME
PART 7. CREDITS AGAINST TAX

710:50-15-119. Parental Choice Tax Credit

(a) **General provisions.** There is hereby created the Oklahoma Parental Choice Tax Credit Program to provide an income tax credit to a taxpayer for qualified expenses to support the education of eligible students in Oklahoma. For tax year 2024 and subsequent tax years, there shall be allowed against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes a refundable income tax credit for any Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student. [See: 70 O.S. 2023, § 28-100, et seq.]

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Curriculum"** means a complete course of study for a particular content area or grade level.

(2) **"Education service provider"** means a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students.

(3) **"Eligible student"** means a resident of Oklahoma who is eligible to enroll in a public school within the state at educational levels of pre-kindergarten through 12th grade. Eligible student shall include a student who is enrolled in and attends a private school in Oklahoma that is accredited by the State Board of Education or another accrediting association or a student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A).

(4) **"Home school tax credit"** means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(b).

(5) **"Household"** means the persons who reside in the same home as and provide financial support for the eligible student as of the date the application for the tax credit is submitted.

(6) **"Oklahoma taxpayer"** means:

(A) Any person owing or liable to pay any Oklahoma tax;

(B) Any person required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or

(C) Any person required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law. [See: 68 O.S. § 202]

(7) **"Priority consideration"** means an application will be reviewed and considered for approval before other applications received by the Tax Commission, regardless of whether the other applications were submitted on an earlier date. An application for the private school tax credit will only receive **priority consideration** if submitted on or before the deadline set by the Tax Commission and for an eligible student who is a member of a

household in which the total federal adjusted gross income (AGI) does not exceed \$150,000.

(8) "**Private school tax credit**" means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(a).

(9) "**Qualified expense**" means:

(A) For the purpose of claiming the private school tax credit in subsection (c) of this Section, **qualified expense** means tuition and fees at a private school accredited by the State Board of Education or another accrediting association. Although not an exhaustive list fees may include enrollment, registration, or application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school.

(B) For the purpose of claiming the home school tax credit in subsection (d) of this Section, **qualified expense** means the following expenditures:

(i) Tuition and fees for nonpublic online learning programs;

(ii) Academic tutoring services provided by an individual or a private academic tutoring facility;

(iii) Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider; and

(iv) Fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments.

(10) "**Second preceding tax year**" means the tax year occurring two taxable years prior to the tax year for which the credit application is submitted.

(11) "**Taxpayer**" means an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(A) A foster parent, or the foster parents, shall be included within the meaning of other person with legal authority to act on behalf of an eligible student.

(B) Taxpayer shall not include a parent or the parents of an eligible student whose parental rights over the eligible student has been legally terminated.

(12) "**Warrant**" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A **warrant** operates like a paper check.

(c) **Private school tax credit.**

(1) **Amount of credit.** If the eligible student attends or will attend a private school accredited by the State Board of Education or another accrediting association, the credit amount shall be equal to the amount of tuition and fees charged to or that will be paid by the taxpayer for attending the private school, subject to the following limitations:

(A) The maximum credit amount allowed is \$7,500 if the eligible student is a member of a household in which the total federal (AGI) during the second preceding tax year does not exceed \$75,000;

(B) The maximum credit amount allowed is \$7,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$75,000 but does not exceed \$150,000;

(C) The maximum credit amount allowed is \$6,500 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$150,000 but does not exceed \$225,000;

(D) The maximum credit amount allowed is \$6,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$225,000 but does not exceed \$250,000;

or

(E) The maximum credit amount allowed is \$5,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$250,000.

(2) Annual cap and limitation of credit.

(A) The total amount of private school tax credits is subject to the following caps:

(i) For tax year 2024, the total amount of credits shall not exceed \$150,000,000.

(ii) For tax year 2025, the total amount of credits shall not exceed \$200,000,000.

(iii) For tax year 2026, and subsequent tax years, the total amount of credits shall not exceed \$250,000,000.

(B) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. 2023, § 28-101(I).

(3) Claiming the private school tax credit.

(A) Pursuant to 70 O.S. §28-101(C)(1)(a) for the tax year 2024 and subsequent tax years, if an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the tax year, the taxpayer may be eligible to claim the private school tax credit. If a taxpayer has more than one eligible student, the taxpayer may complete and submit a single application that includes each eligible student. The taxpayer shall complete and submit the application online, and attach the applicable documentation, which includes an Affidavit (Enrollment Verification Form). Taxpayer shall include the following with the application:

(i) The name, address, and social security or individual taxpayer identification number (ITIN) of the taxpayer;

(ii) The name, address, date of birth, and social security number or individual taxpayer identification number (ITIN) of the eligible student(s);

(iii) The name and address of the eligible student's parent(s) or legal guardians(s), if different from the taxpayer; and

(iv) Verification of federal AGI for the second preceding tax year for the household of which the eligible student is a member, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). For example, if a taxpayer is applying for the private school tax credit for tax year 2024 and has not previously filed an Oklahoma income tax return or the Tax Commission cannot verify a tax return has been filed the taxpayer may be required to provide a copy of the 2022 Oklahoma income tax return or federal income tax return of the household, even if the student did not reside in the household during that reporting period. If the household had no tax filing requirement, the taxpayer shall submit an Affidavit for No Filing Requirement and/or an Internal Revenue Service (IRS) Verification of Non-filing Letter, which provides proof from the IRS that there is no record of a filed tax form for the tax year requested.

(B) The Tax Commission will make available an Affidavit (Enrollment Verification Form) to be completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

- (i) The name, address and date of birth of eligible student.
- (ii) The designated semester(s) and tax year during which the qualified expenses will be paid;
- (iii) The name and address of the school;
- (iv) The name and telephone number of a contact person(s) with the private school;
- (v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the tax year.

(C) The private school tax credit shall be exclusively claimed through the submission of an application, as set out in this paragraph. The credit cannot be claimed on the Oklahoma income tax return.

(i) The application process for tax year 2024 will commence on December 1, 2023, at 8:30 a.m. (CST). For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1, 2024, to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E). The application shall include qualified expenses paid or expected to be paid for tax year 2024.

(ii) If the application is approved, the credit will be paid in two installments. Each installment will be half of the amount of the anticipated private school tuition and fees the taxpayer expects to incur during the tax year based on the private school's Affidavit (Enrollment Verification Form), or half the amount of the allowable credit, whichever is less.

- (iii) The application deadline is on or before December 31 of the tax year the taxpayer incurs a qualified expense on behalf of an eligible student or until the annual cap has been met, whichever occurs first.
- (iv) The application process for subsequent tax years will commence at 8:30 a.m. (CST) on December 1 preceding the applicable tax year. For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1 of the applicable tax year to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E).
- (v) If December 1 falls on a Saturday, Sunday or legal holiday, the application process will open on the next day that is not a Saturday, Sunday or legal holiday.
- (D) After all timely-filed applications entitled to priority consideration have been reviewed and processed, the Tax Commission will review and process remaining applications for the credit in the order received, provided the annual cap has not been reached.
- (E) Installment payments of the credit shall be made by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll. The taxpayer shall restrictively endorse the warrant to the private school for deposit into the account of the school unless the tuition and fees for the eligible student have already been paid by the taxpayer.
- (F) Each participating private school will respond electronically to the Tax Commission's request to verify certain information to determine if the refundable tax credit was applied toward a qualified expense during the applicable tax year. Responses to the requested information are due on or before November 1 of each year. Information requested for verification shall include the following information for each eligible student for whom the school received a credit payment for the current tax year:
- (i) The name and address of the private school;
 - (ii) The amount of credit received by the private school on behalf of the eligible student;
 - (iii) Dates of attendance of the eligible student; and
 - (iv) The name, address and date of birth of eligible student.
- (G) The credit can be claimed only for the tax year in which the qualified expenses are actually incurred. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.
- (H) If a taxpayer's application for the credit is denied, the taxpayer may file an application for a hearing before the Tax Commission pursuant to the provisions of 68 O.S. § 207(c).
- (I) The total federal AGI of a student's household shall be determined as follows:

(i) If the student's parents or custodians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or custodians' second preceding year tax return will be used.

(ii) If the student's parents or custodians have an income tax filing status of "married, filing separately", the parents' or custodians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the student's household federal AGI.

(iii) If the student's household includes any additional person that is providing financial support to the student, the additional person's federal AGI for the second preceding tax year will be added to the federal AGI of the parents or custodians for the second preceding tax year.

(J) Each private school accredited by the State Board of Education or another accrediting association, shall initially complete an online Participation Agreement with the Tax Commission. The Participation Agreement shall include:

(i) Name, address, phone number, FEIN, and website of the private school;

(ii) Contact information for the private school;

(iii) Proof of accreditation from the State Board of Education or another accrediting association; and

(iv) Other school identification information.

(d) Home school tax credit.

(1) If the eligible student is educated pursuant to the other means of education exception [70 O.S. § 10-105(A)] the maximum annual credit amount shall be \$1,000 per eligible student.

(2) For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed \$5,000,000 annually.

(3) The tax credit may be claimed on the applicable tax year's Oklahoma income tax return.

(4) The credit must be claimed for the tax year in which the qualified expenses are actually incurred and paid. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(e) Records. A taxpayer claiming the Parental Choice Tax Credit shall maintain records of proof as to the qualified expenses paid for by the taxpayer. Records maintained by the taxpayer shall be subject to inspection by the Tax Commission and its duly authorized agents and employees.

(f) Offset. Pursuant to 68 O.S. §205.2(F) the Tax Commission shall deduct from the amount of the credit due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law prior to payment of such refund. **[See 68 O.S. § 205.2(F)]**

(g) Recapture. The Tax Commission shall recapture tax credits if:

(1) The credit was claimed for expenditures that were not qualified expenses;

(2) The taxpayer has claimed an eligible student who no longer attends a private school or has enrolled in a public school for the period for which the credit was claimed; or

(3) Taxpayer fails to comply with any other provisions of 70 O.S. 2023, § 28-100, et seq.