

## CHAPTER 50. INCOME

### SUBCHAPTER 1. GENERAL PROVISIONS

#### **710:50-1-7. Copying fees**~~Requests for Copies of Income Tax Returns~~

(a) Copies of returns will cost the following:

- (1) ~~One or two years - \$2.00~~
- (2) ~~Three years - \$2.75~~
- (3) ~~Four years - \$3.50~~
- (4) ~~Five years - \$4.25~~

(b) ~~Copies of additional returns will cost 25 cents per item.~~

(c) ~~Remittance shall be made payable to the Oklahoma Tax Commission. To obtain a copy of a previously filed Oklahoma income tax return, submit Form 599 to: Oklahoma Tax Commission Oklahoma City, OK 73194. Include the following information:~~

- (1) ~~Tax year(s) requested;~~
- (2) ~~Social Security Number (SSN) or Employer Identification Number (EIN);~~
- (3) ~~For joint income tax returns, provide both SSNs or EINs.~~

(b) ~~The copying fees are \$5.00 per copy for each Oklahoma return. The fee for mailing by certified mail is \$7.00. Full payment, made payable to the Oklahoma Tax Commission, must be included with the request. Enter the SSN or EIN and "Form 599 Request" on the check or money order.~~

### SUBCHAPTER 3. RETURNS AND REPORTS

#### PART 5. FILING STATUS; ELECTIONS; ACCOUNTING PERIODS AND METHODS

#### **710:50-3-47. Pass-Through Entity Tax Equity Act of 2019**

(a) An entity that is required to file either an Oklahoma partnership income tax return or an Oklahoma Subchapter S corporate income tax return may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years ~~by filing a pass-through entity (PTE) election.~~ [(68 O.S. § 2355.IP-1 et seq.)]

(b) ~~The election to pay income tax at the entity level may be made either by filing OTC Form 586 as a stand-alone form or by filing OTC Form 586 with the pass-through entity's (PTE) income tax return. The Tax Commission will send an acknowledgement letter to each PTE that files a pass-through entity election. Each electing PTE must provide its shareholders, partners, or members, with a copy of the Tax Commission acknowledgment letter.~~

(1) ~~**Election made by filing OTC Form 586 as a stand-alone form.** A PTE election may be made by a qualifying PTE at any time during the preceding tax year or two (2) months and fifteen (15) days after the beginning of the current tax year by filing OTC Form 586. The Oklahoma Tax Commission shall send an acknowledgement letter to each PTE that files a pass-through entity election. Each electing PTE shall provide its shareholders, partners or members, with a copy of the Oklahoma Tax Commission acknowledgment letter and advise the shareholder, partner or member of the requirement to attach a copy of the Oklahoma Tax Commission acknowledgment letter to the Oklahoma income tax return of the partner, shareholder or member. as a stand-alone form. Each year, the shareholder, partner, or member of the electing PTE must include a copy of the Tax Commission acknowledgement letter with the Oklahoma income tax return of the shareholder, partner or member.~~

(2) ~~**Election made on the qualifying PTE's Oklahoma income tax return.** Beginning with tax year 2024, an election may be made by a qualifying PTE on the Oklahoma income tax return of the qualifying PTE prior to but not later than the due date of the applicable income tax return, including any extension. Each qualifying PTE making the election on their Oklahoma income tax return must include OTC Form 586 with the return. For the tax year the election is made, the shareholder, partner or member of the electing PTE must include a copy of OTC Form 586 of the electing PTE which has been signed by a partner, member, or corporate officer who is authorized to sign and file the electing PTE income tax return. Returns of shareholders, partners or members filed in subsequent years must include a copy of the Tax Commission acknowledgement letter.~~

(c) For income distributed to estates, trusts or individuals, electing entities are taxed at the highest marginal individual income tax rate. For income distributed to corporations, electing entities are taxed at the corporate income tax rate. [68 O.S. §2355]

(d) Oklahoma income or losses the electing PTE included in computing its tax will not be used to calculate the Oklahoma taxable income of the partners, members or shareholders of the electing entity.

(e) For tax years beginning on or after January 1, 2020, estimated tax payments shall be required of an electing PTE as provided in ~~68 O.S. § 2385.9.~~

(f) A PTE election is binding until revoked by the electing PTE or by the Oklahoma Tax Commission.

(1) An electing PTE may revoke the election by filing OTC Form 586. The effective date of a PTE's revocation of an election made within two (2) months and fifteen (15) days of the electing PTE's taxable year shall be the first day of such

taxable year. If the revocation is made after this time period, the revocation is effective on the first day of the following taxable year.

(2) If the amount of tax required to be paid by an electing PTE is not paid when due, the Oklahoma Tax Commission may, in its discretion, revoke the PTE's election effective for the first year for which the tax is not paid.

## SUBCHAPTER 11. INTERCEPT OF REFUNDS

### 710:50-11-5. Refunds shall be intercepted

(a) ~~\_\_\_\_\_~~ Prior to payment of any refund, the Tax Commission shall deduct from any state refund due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law. [See: 68 O.S. § 205.2(F)]

(b) Property tax relief payments (68 O.S. § 2906), sales tax relief payments (68 O.S. § 5011), and Parental Choice Tax Credit payments (70 O.S. § 28-101) are not subject to the provisions of this Subchapter.

## SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

### PART 3. EXEMPTIONS

#### 710:50-15-36. Parental Choice Tax Credit payments

For tax year 2024 and subsequent tax years, tax credit payments received pursuant to the Oklahoma Parental Choice Tax Credit Act are exempt from Oklahoma taxable income. (70 O.S. § 28-101).

### PART 5. OTHER ADJUSTMENTS TO INCOME

#### 710:50-15-52. Out-of-state income

(a) For residents, "**out-of-state income**" consists of income from real or tangible personal property or business income ~~in another state outside the State of Oklahoma~~. Any amount deducted must be substantiated with the appropriate Federal schedule which sets out the Oklahoma portion.

(b) Losses sustained from property owned or from a business located outside the State of Oklahoma must be added to Federal adjusted gross income to arrive at Oklahoma adjusted gross income.

(c) ~~Out-of-State~~ state income is limited to the net income from real or tangible personal property or net business income ~~in another state outside the State of Oklahoma~~. [See: 68 O.S. § 2358(A)(4)]

#### 710:50-15-62. Agricultural commodity processing facility income/investment exclusion

(a) **General provisions.** Owners of agricultural commodity processing facilities may exclude from Oklahoma ~~Taxable Income~~ taxable income, or in the case of individuals, from Oklahoma ~~Adjusted Gross Income~~ adjusted gross income, a portion of their investment costs in any new or expanded agricultural commodity processing facility located in this state.

(1) **For investments made on or after January 1, 1997, but before December 31, 1998.** Owners of agricultural commodity processing facilities may exclude fifteen percent (15%), of their investment cost in a new or expanded agricultural commodity processing facility located in Oklahoma.

(2) **For investments made on or after January 1, 1999.** If the exclusion for investment in agricultural processing facilities results in the reduction in total Oklahoma ~~Income Tax~~ income tax in excess of ~~one million dollars (\$1,000,000.00)~~ \$1,000,000 in any previous calendar year, the percentage of investment subject to exclusion will be adjusted. The adjusted percentage allowable will be determined by dividing ~~\$1,000,000.00~~ \$1,000,000 by ~~six~~ four percent (4%), then further dividing the result by the total previous year's investment subject to exclusion.

(b) **Definitions.** For purposes of this Section, the following words and terms, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Agricultural commodities**" means a farm or ranch product, including but not limited to, wheat, corn, soybeans, cotton, timber, cattle, hogs, sheep, horses, poultry, animals of the families bovidae, cervidae, and antilocapridae, or birds of the ratite group, produced in farming or ranching operations, or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-dip, maple syrup, milk, and eggs, or any other commodity listed under any Industry Group Number under Major Group 20, Division D, of the Standard Industrial Classification Manual.

(2) "**Agricultural commodity processing facility**" means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. Effective November 1, 2000, the term shall also mean a dairy operation that requires a depreciable investment of at least ~~Two Hundred Fifty Thousand Dollars (\$250,000.00)~~ \$250,000 and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities. [See: 68 O.S. § 2358(A)(6)(a)]

(3) "**Facility**" means each part of the facility which is used in a process primarily for:

(A) The processing of agricultural commodities, including receiving or storing agricultural commodities, or, effective November 1, 2000, the production of milk at a dairy operation, [See: 68 O.S. § 2358(A)(6)(b)]

(B) Transporting the agricultural commodities or product before, during or after the processing, or

(C) Packaging or otherwise preparing the product for sale or shipment.

(c) **Qualification.** In order to qualify for the exclusion, the agricultural commodity processing facility must be operated primarily for the processing or production of agricultural commodities to marketable products.

(d) **Limitations.** This exclusion from income is to be taken in the taxable year when the investment is made. For purposes of this exclusion, the investment is deemed to be made when the property is placed in service. Under no circumstances shall this exclusion from income lower claimant's Oklahoma Taxable Income below zero. In the event the exclusion does exceed income, any unused portion may be carried forward for a period not to exceed six (6) years from the initial year of qualification. If the exclusion from income amount is determined based on the percentage allowable but not used, the amount shall not change based on subsequent change in percentage allowable to be excluded. In no event will the exclusion percentage exceed fifteen percent (15%).

(e) **Information return required.** Owners who intend to claim the exclusion for investment costs described in this Section must file, on a form prescribed by the Tax Commission, an information return, reporting the amount of qualified property placed in service during the preceding calendar year. The information return must be submitted by January 31.

## PART 7. CREDITS AGAINST TAX

### 710:50-15-81. Credit for qualified clean-burning motor vehicle fuel property

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

(1) "**Motor vehicle**" means a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways. [See: 68 O.S. § 2357.22(C)] "Vehicle" shall not mean conveyor belts, forklifts, riding mowers, tractors, or other similar items.

(2) "**Qualified clean-burning motor vehicle fuel property**" means as defined in Section 2357.22(B) of Title 68 of the Oklahoma Statutes.

(b) **General provisions.** For tax years 2028 and before, there shall be allowed a one-time nonrefundable income tax credit for investments in qualified clean-burning motor vehicle fuel property placed in service on or after January 1, 1991, or with respect to a hydrogen fuel cell, on or after July 1, 2023. ~~An entity that converts property to qualified clean-burning motor vehicle fuel property may lease such property and retain the right to claim the credit.~~ Property on which the credit has previously been claimed is ineligible for the credit.

(c) **Leased property and equipment.** An entity that converts property to qualified clean-burning motor vehicle fuel property may lease such property and retain the right to claim the credit. An entity that invests in and owns equipment that qualifies as qualified clean-burning motor vehicle fuel property may claim the credit even if a different entity owns the remainder of the motor vehicle property and leases the conversion equipment from the owner of the equipment. As used herein, a "different entity" includes, but is not limited to, the United States government, the State of Oklahoma, and any political subdivision of this state.

(d) **Amount of credit.**

(1) **Motor vehicle credit.**

~~(A)~~ For the qualified clean-burning motor vehicle fuel property defined in 68 O.S. ~~Supp. 2022, § 2357.22 (B)(1), (2) or (5),~~ the maximum amount of the credit shall be as follows based upon gross vehicle weight of the qualified vehicle:

~~(A)~~ (i) For vehicles up to or below 6,000 pounds, the credit shall be a maximum amount of ~~\$5,500.00;~~ \$5,500;

~~(B)~~ (ii) For vehicles between 6,001 pounds to 10,000 pounds, the credit shall be a maximum amount of ~~\$9,000.00;~~ \$9,000;

~~(C)~~ (iii) For vehicles of 10,001 pounds, but not in excess of 26,500 pounds, the credit shall be a maximum amount of ~~\$26,000.00;~~ \$26,000; and

~~(D)~~ (iv) For vehicles equal to or in excess of 26,501 pounds, the credit shall be a maximum amount of ~~\$100,000.00~~ \$100,000.

~~(B)~~ For qualified clean-burning motor vehicle fuel property defined in 68 O.S. ~~Supp. 2022, § 2357.22(B)(3)~~ (1), the amount of the credit is limited to the lesser of the cost of the conversion equipment installed, which includes parts and installation service, or the amount in subparagraph (A) of this paragraph.

(C) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(2) and (5), the amount of the credit is:

(i) Limited to the lesser of the portion of the basis of the motor vehicle that is attributable to the storage of such fuel, the delivery to the engine of such fuel, and the exhaust of gases from combustion of such fuel, or the amount in subparagraph (A) of this paragraph; or

(ii) The lesser of 10% of the cost of the motor vehicle or \$1,500.

(2) **Infrastructure credit.**

(A) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(3), a per-location credit of 45% of the cost of the qualified clean-burning motor vehicle fuel property.

~~(B)~~ For qualified clean-burning motor vehicle fuel property defined in 68 O.S. ~~Supp. 2022, § 2357.22(B)(4)~~, a per-location credit of the lesser of 50% of the cost of the qualified clean-burning motor vehicle fuel property or ~~\$2,500.00~~ \$2,500.

~~(d)~~ (e) **Carryforward.** Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

~~(e)~~ (f) **Limitations of eligibility.** No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), or Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), shall be eligible to receive the credit for qualified clean-burning motor vehicle fuel property provided by 68 O.S. § 2357.22, in connection with the activity and establishment for which incentive payments have been, or are being received. [See: 68 O.S. §§ 3607, 3909]

~~(f)~~ (g) **Sunset date.** This credit will only be available through tax years beginning before December 31, 2028.

~~(g)~~ (h) **Tax credit limitation.**

(1) For tax years 2020 through 2022, the total amount of credits used to offset tax shall be adjusted annually to limit the annual amount of credits to ~~Twenty Million Dollars (\$20,000,000.00)~~ \$20,000,000.

(2) For tax years 2023 through 2028, the total amount of credits used to offset tax shall be adjusted annually to limit the annual amount of credits to:

(A) ~~Ten Million Dollars (\$10,000,000.00)~~ \$10,000,000 for qualified clean burning fuel property propelled by compressed natural gas, liquefied natural gas, or liquefied petroleum gas, property related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, and property directly related to the compression and delivery of natural gas;

(B) ~~Ten Million Dollars (\$10,000,000.00)~~ \$10,000,000 for property originally equipped so that the vehicle may be propelled by a hydrogen fuel cell electric fueling system and property directly related to the delivery of hydrogen; and

(C) ~~Ten Million Dollars (\$10,000,000.00)~~ \$10,000,000 for property which is a metered-for-fee, public access recharging system for motor vehicles propelled in whole or in part by electricity.

(D) Beginning with tax year 2024, if one of the tax credit pools listed in paragraph (2) of this subsection is not fully utilized for the applicable tax year, the remaining balance of that pool shall be allocated to each of the two remaining tax credit pools in equal amounts. If two of the tax credit pools listed in paragraph (2) are not fully utilized for the applicable tax year, the remaining balances in both pools shall be added together and the sum of those amounts shall be allocated to the remaining tax credit pool.

(3) The Tax Commission shall annually calculate and publish by the first day of the affected taxable year a percentage by which the credits shall be reduced so the total amount of credits used to offset tax does not exceed each of the limits provided in subsection ~~(g)~~ (h). Provided, no credit shall be reduced unless the total amount of credits used to offset tax exceeds \$30,000,000.

(A) If the total amount of credits used to offset tax from all three tax credit pools exceeds \$30,000,000 and the remaining balance of one pool is allocated to the remaining tax credit pools, the Tax Commission shall calculate the percentage adjustments as follows:

(i) There shall be no percentage adjustment for the tax credit pool from which the remaining balance was allocated to the other two pools.

(ii) The formula to be used for the other two pools shall be \$10,000,000 plus the amount allocated from the other pool divided by the credits claimed in the second preceding year from the respective pool.

(iii) For example, assume that \$4,000,000 from Pool C is allocated in equal amounts to Pool A and Pool B:

(I) For Pool A, \$12,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(II) For Pool B, \$12,000,000 shall be divided by the credits claimed in the second preceding year from Pool B.

(III) As the credits claimed from Pool C did not exceed \$10,000,000, no calculation formula is needed.

(B) If the total amount of credits used to offset tax from all three tax credit pools exceeds \$30,000,000 and the remaining balances of two pools are allocated to the remaining tax credit pool, the Tax Commission shall calculate the percentage adjustments as follows:

(i) There shall be no percentage adjustment for the two tax credit pools from which the remaining balances were allocated to the remaining pool.

(ii) The formula to be used for the remaining pool shall be \$10,000,000 plus the amount allocated from the other pools divided by the credits claimed in the second preceding year from the remaining pool.

(iii) For example, assume that \$4,000,000 from Pool B and \$4,000,000 from Pool C are allocated to Pool A:

(I) For Pool A, \$18,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(II) As the credits claimed from Pool B did not exceed \$10,000,000, no calculation formula is needed.

(III) As the credits claimed from Pool C did not exceed \$10,000,000, no calculation formula is needed.

(C) If the total amount of credits used to offset tax from all three tax credit pools exceeds \$30,000,000 and the amount of credits used to offset tax in each individual pool exceeds \$10,000,000, the Tax Commission shall calculate the percentage adjustments as follows:

(i) For Pool A, \$10,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(ii) For Pool B, \$10,000,000 shall be divided by the credits claimed in the second preceding year from Pool B.

(iii) For Pool C, \$10,000,000 shall be divided by the credits claimed in the second preceding year from Pool C.

#### **710:50-15-109. Credit for qualified employers and employees of the aerospace sector**

(a) **General provisions.** For tax years beginning after December 31, 2008 and before January 1, 2026, three (3) credits are allowed against the tax imposed by Section 2355 of Title 68 for the employment of qualified employees in the aerospace sector. The three (3) credits are as follows:

- (1) Credit for qualified employers for tuition reimbursement to qualified employees.
- (2) Credit for qualified employers for compensation paid to qualified employees.
- (3) Credit for qualified employees.

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

(1) **"Qualified employee"**.

(A) Any person, regardless of the date of hire by the qualified employer, who is newly employed by or contracting with a qualified employer in Oklahoma on or after January 1, 2009.

(B) A person who has been either:

- (i) Awarded an undergraduate or graduate degree from a qualified program by an institution, or
- (ii) Licensed as a Professional Engineer by the State Board of Licensure for Professional Engineers and Land Surveyors pursuant to Section 475.15 of Title 59 of the Oklahoma Statutes and employed as a qualified employee in the aerospace sector by a qualified employer on or after November 1, 2021.

(C) Qualified employee does not include a person employed in the aerospace sector in this state immediately preceding employment or contracting with a qualified employer, unless,

- (i) The employee was employed in the aerospace sector, but not as a full-time engineer, prior to being awarded a degree, or
- (ii) The employee has been awarded a degree and is employed by a professional staffing company and assigned to work in the aerospace sector in Oklahoma, or
- (iii) The employee previously qualified and claimed the credit and becomes employed by a different qualified employer on or after January 1, 2024, or
- (iv) The employee claimed the credit for the first time in tax year 2024, or any subsequent tax year, and becomes employed by a different qualified employer in any subsequent tax year.

(2) **"Qualified program"** is any program that awards undergraduate or graduate degrees and has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET). Effective November 1, 2021, a qualified program includes both undergraduate and graduate programs of the same discipline of engineering at an institution if either program is ABET accredited.

(3) **"Aerospace sector", "compensation", "institution", "qualified employer" and "tuition"** shall be defined as in Section 2357.301 of Title 68 of the Oklahoma Statutes.

(c) **Credit for tuition reimbursement.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes based on the amount of tuition reimbursed to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for tuition reimbursement may only be claimed if the qualified employee has been awarded an undergraduate or graduate degree within one (1) year of starting employment with the qualified employer. The undergraduate or graduate degree must be from a qualified program.

(3) The credit for tuition reimbursement is equal to fifty percent (50%) of the tuition reimbursed to a qualified employee and may be claimed for the first through fourth years of employment with the qualified employer. The credit is only allowed to be claimed in the tax year that the tuition was reimbursed to the qualified employee and may not exceed in any taxable year fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

(4) The credit for tuition reimbursement may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for tuition reimbursement may not be claimed after the fourth year of employment of the qualified employee.

**(d) Credit for compensation paid.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for compensation paid to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for compensation paid equals:

(A) Ten percent (10%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located in this state.

(B) Five percent (5%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located outside this state.

(3) The credit for compensation paid cannot exceed ~~Twelve Thousand Five Hundred Dollars (\$12,500.00)~~ \$12,500 for each qualified employee annually.

(4) The credit for compensation paid may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for compensation paid may not be claimed after the fifth year of employment.

**(e) Credit for qualified employees.**

(1) For taxable years beginning after December 31, 2008, a qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes of up to ~~Five Thousand Dollars (\$5,000.00)~~ \$5,000 per tax year for a period of time not to exceed five (5) years during the lifetime of the qualified employee. This credit may be claimed in nonconsecutive tax years.

(2) The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(3) Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

**710:50-15-118. Credit for nonrecurring adoption expenses**

(a) **General provisions.** In taxable years beginning after December 31, 2022, an income tax credit equal to 10% of nonrecurring adoption expenses is allowed to resident individual taxpayers ~~for nonrecurring adoption expenses~~, not to exceed \$2,000 (\$4,000 for a married filing joint return) per calendar year, paid in connection with the adoption of a minor, or proposed adoption of a minor which did not result in a decreed adoption.

(b) **Allowable expenses.** For purposes of this Section "nonrecurring adoption expenses" means and includes:

(1) Adoption fees;

(2) Court costs;

(3) Medical expenses;

(4) Attorney fees;

(5) Expenses directly related to the legal process of the adoption of a child and are not reimbursed by other sources, to include, but not limited to costs related to:

(A) The adoption study;

(B) Health and psychological examinations;

(C) Transportation and reasonable costs of food and lodging for the child or adoptive parents which are incurred to complete the adoption process. Transportation expense by either commercial or private means may be claimed based upon actual unreimbursed costs incurred, or in the case of travel by private means, the mileage rate allowed pursuant to the Internal Revenue Code for determining business travel expense may be elected.

(6) Costs associated with physical remodeling, renovation, or alteration of the adoptive parents' home or property, if incurred in conjunction with the adoption of a special needs child, as authorized by the court.

(c) **"Nonrecurring adoption expenses"** shall not mean or include:

(1) Costs reimbursed by other sources.

(2) Attorney fees incurred from and after the commencement of an action involving a contest of an adoption.

(3) Costs associated with physical remodeling, renovation, or alteration of the adoptive parent's home or property, with the exception noted in (b)(6) of this Section.

(d) **Verification.** A schedule describing the expenses claimed must be enclosed and filed with the claimant's tax return. Receipts supporting the claimed expenses are not required to be submitted with the tax return and descriptive schedule; but must be retained and be available upon request by the Tax Commission.

**710:50-15-119. Parental Choice Tax Credit [REVOKED]**

(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. [Sec: 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.

(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.

## PART 9. OKLAHOMA PARENTAL CHOICE TAX CREDIT

The provisions of this Part have been promulgated to implement and administer the Oklahoma Parental Choice Tax Credit Program authorized by 70 O.S. § 28-100, et seq.

#### **710:50-15-171. Definitions**

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Accredited private school" means a private school in Oklahoma accredited by the State Board of Education or another accrediting association.

"Curriculum" means a complete course of study for a particular content area or grade level. [70 O.S. § 28-101(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 in this state. [70 O.S. § 28-101(4)]

"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 (beginning at age 4) through 12th grade. Eligible student shall include:

(A) A student who is enrolled in and attends or is expected to enroll in and attend an accredited private school.

(B) A student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A), (hereafter referred to as "homeschool").

(C) A student who attends an accredited private school that exclusively serves students experiencing homelessness.

(D) A student who attends an accredited private school that primarily serves financially disadvantaged students.

"Fiscal year" means the 12-month period from July 1 through June 30.

"Homeschool" means the full-time education of a student in the home, but does not include:

(A) Education of a student in the home who is enrolled in a virtual charter school or virtual private school.

(B) Tutoring or supplemental education of a student in the home who is also enrolled in public or private school.

(C) Periods when the student is on break from a public or private school, such as during summer.

"Homeschool tax credit" means credits authorized pursuant to 70 O.S. § 28-101(C)(2).

"Oklahoma taxpayer" means:

(A) Any person, resident or non-resident, owing or liable to pay any Oklahoma tax;

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

(C) Any person, resident or non-resident, 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]

"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 and time.

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

"School year" means two semesters, fall and spring, during which schools are in session and students are attending classes. The school year occurs within the fiscal year.

"Second preceding tax year" means the tax year occurring two taxable years prior to the year for which the tax credit application is submitted. For example, tax credit applications submitted in 2025 for the 2025/2026 school year will utilize the federal adjusted gross income (AGI) from the 2023 income tax return.

"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 have been legally terminated.

"Tax year" means the 12-month period from January 1 through December 31.

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

#### **710:50-15-172. Private school tax credit**

(a) **General provisions.** For tax year 2024, and fiscal year ending June 30, 2026, and subsequent fiscal years ending June 30, an income tax credit is allowed for qualified expenses paid for an eligible student to attend an accredited private school.

(b) **Qualified expenses.** Qualified expenses for the private school tax credit include tuition and fees at an accredited private school. Fees may, but are not limited to, 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. Qualified expenses for the private school tax credit do not include tuition and fees paid with a scholarship or otherwise reduced or discounted by the school.

(c) **Amount of credit.** For an eligible student who attends or will attend an accredited private school, the credit amount is equal to the amount of tuition and fees charged to or will be paid by the taxpayer for attending the accredited private school for the full school year, as stated on the enrollment verification form, subject to the following limitations:

- (1) The maximum credit amount allowed is \$7,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year does not exceed \$75,000;
- (2) The maximum credit amount allowed is \$7,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$75,000 but does not exceed \$150,000;
- (3) The maximum credit amount allowed is \$6,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$150,000 but does not exceed \$225,000;
- (4) The maximum credit amount allowed is \$6,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$225,000 but does not exceed \$250,000; or
- (5) The maximum credit amount allowed is \$5,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$250,000.
- (6) The maximum credit amount allowed is \$7,500 for taxpayers who receive income-based government benefits, including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, as of the date of the tax credit application.

**(d) Annual cap and limitation of credit.**

- (1) The total amount of private school tax credits authorized by 70 O.S. § 28-101(C)(1) is subject to the following caps:
  - (A) For tax year 2024, the total amount of credits shall not exceed \$150,000,000.
  - (B) For the period of January 1, 2025, through June 30, 2025, the total amount of credits shall not exceed \$100,000,000.
  - (C) For fiscal year ending June 30, 2026, and subsequent fiscal years ending June 30, the total amount of credits shall not exceed \$250,000,000.
- (2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

**(e) Claiming the private school tax credit.**

(1) **Application.** If an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the school year, the taxpayer may be eligible to claim the private school tax credit. To apply for the credit, the taxpayer shall complete and submit an online application for each eligible student and include the following documentation and information with the application:

- (A) The name, address, and social security number or individual taxpayer identification number (ITIN) of the taxpayer.
- (B) The name, address, date of birth, and social security number or ITIN of the eligible student.
- (C) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parental consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.
- (D) Income verification of the parents or legal guardian of the eligible student, according to one of the following:
  - (i) Verification of federal AGI for the second preceding tax year of the parents or legal guardians of the eligible student, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). If, at the time of submission of the tax credit application, the taxpayer has not filed the second preceding years' tax return, but had a filing requirement, and therefore AGI cannot be verified, the tax credit application will be denied and must be resubmitted once the second preceding tax year return is filed and received by the Oklahoma Tax Commission. The resubmission date and time of a complete application will determine the applicant's place in line.
  - (ii) If the parents or legal guardians had no tax filing requirement for the second preceding tax year, the taxpayer shall attest within the application they did not have a tax filing requirement.
  - (iii) If a taxpayer is a recipient of income-based government benefits including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, the taxpayer shall not be required to provide additional income verification. The taxpayer must attach documentation that shows he or she is a current recipient of the above-listed government benefits at the time of the tax credit application. Failure to attach the required documentation, without any other income verification documentation, may result in denial of the application. The resubmission date and time of a complete application will determine the applicant's place in line.
- (E) An enrollment verification form 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 school year during which the qualified expenses will be paid;
  - (iii) The name and address of the private school;
  - (iv) The name and telephone number of a contact person(s) with the private school; and
  - (v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the school year, less any scholarship or tuition and fees discounted or otherwise reduced by the school.

(2) **Review and submission.** The applicant is responsible for reviewing the information contained within the enrollment verification form and verifying its accuracy. Once the enrollment verification form is submitted with an application, the information included within the enrollment verification form cannot be changed. In order to adjust any information after an application has been submitted, a taxpayer must withdraw their application, request a new enrollment verification form

from the private school, and submit a new application. The date and time of the new application will be used to determine applicant's place in line for the credit.

(3) **Application period opening date.** Beginning with the 2025-2026 school year and subsequent school years, the application period will open on February 15, at 9:00 a.m. (CST), prior to the beginning of the applicable school year. To ensure payment of the credit by August 30, processable applications must be submitted no later July 15. If February 15 falls on a Saturday, Sunday or official State of Oklahoma holiday, the application process will open on the next day that is not a Saturday, Sunday or official State of Oklahoma holiday.

(4) **Priority consideration.** For any eligible student whose parents or legal guardians have a combined federal AGI that does not exceed \$150,000, processable applications must be submitted to the Tax Commission on or before the sixtieth (60th) calendar day following the opening of the application period to receive priority consideration as authorized by 70 O.S. § 28-101(E). Priority will be given to eligible students of taxpayers who received the credit in the prior year and whose parents or legal guardians have a combined federal AGI that does not exceed \$150,000. 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.

(5) **Notification of approval or denial.** Notification of tax credit approval will be sent to the applicant by email once a determination has been made that the application is complete and qualifies for the credit. For those applications that are denied, a letter will be mailed to the applicant, stating the reason for denial.

(6) **Application for review hearing.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c).

(A) The following supporting information and documentation must be included with the request:

(i) A description of the tax credit applied for and the amount in controversy;

(ii) A clear explanation of the alleged error(s) committed by the Tax Commission;

(iii) The legal authority the taxpayer intends to rely upon at hearing;

(iv) A statement of the relief requested; and

(v) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(B) The application for hearing and supporting documentation may be submitted either online or by mail to the address indicated on the form.

(C) The application for hearing and documentation will be reviewed. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

(7) **Installment payments.** For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processable applications filed on or before July 15, payments will be issued no later than August 30 and January 15.

(A) Payments of the credit will 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 may collect the check from the school or may choose to use all or part of the tax credit to pay their student's tuition and fees.

(B) In the event funds have to be recaptured, the taxpayer is responsible for repayment.

(8) **Spring 2025 credit payment.** A taxpayer who applied for and received a private school tax credit in tax year 2024 is not required to reapply for a credit payable for the period of January 1, 2025, through June 30, 2025. The amount of the credit payable for the spring 2025 semester will be the amount of the 2024 fall semester installment payment.

(9) **Reconciliation.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment and tuition for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment and tuition information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment and tuition information for the fall and spring semester of the just completed school year.

(A) Reconciliation information must be provided electronically.

(B) Participating private schools shall verify the following information:

(i) The name and address of the private school;

(ii) The total number of instructional days per semester;

(iii) The total number of instructional days the eligible student was enrolled in the private school each semester;

(iv) The amount of tuition paid on behalf of the eligible student for the applicable year (the initial amount of tuition and fees, less any scholarship or discount);

(v) The name, grade level, address, and date of birth of the eligible student; and

(vi) Any other information requested by the Tax Commission.

(10) **No carryover.** The credit can be claimed only for the school year for which the qualified expenses are incurred. Where qualified expenses are incurred in excess of the allowable credit for any given year, the excess of qualified expenses shall not be used in claiming the credit for any other year.

**(11) AGI determination.** The total federal AGI of an eligible student's parents or legal guardians shall be determined as follows:

- (A) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or legal guardians' second preceding year tax return will be used.
- (B) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing separately", the parents' or legal guardians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the federal AGI.

**(12) School registration.** Each accredited private school that intends to issue enrollment verification forms for the Oklahoma Parental Choice Tax Credit Program, shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

- (A) Name, address, phone number, FEIN, and website of the private school;
- (B) Primary and secondary contact information for the private school, including proof of employment;
- (C) Proof of accreditation from the State Board of Education or another accrediting association; and
- (D) Other school identification information as requested by the Tax Commission.

**(13) Notification of non-use.** Taxpayers that claimed the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student:

- (A) Enrolls in a public school, including an open-enrollment charter school;
- (B) Enrolls in a nonaccredited private school;
- (C) Is no longer enrolled in an accredited private school;
- (D) Graduates from high school; or
- (E) Is no longer utilizing private school tax credits for any reason.

**(14) Recapture.** The Tax Commission shall recapture private school tax credits if:

- (A) The credit was claimed for expenditures that were not qualified expenses;
- (B) 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
- (C) Taxpayer fails to comply with the applicable Oklahoma statutes and regulations.

### **710:50-15-173. Homeschool tax credit**

**(a) General provisions.** Beginning with tax year 2024, an income tax credit is allowed for qualified expenses paid by an Oklahoma taxpayer for the homeschool education of an eligible student. The amount of the credit is 100% of qualified expenses, not to exceed \$1,000 per eligible student per calendar year.

**(b) Claiming the credit.**

- (1) The homeschool tax credit may be claimed on the applicable tax year's Oklahoma income tax return and must include legible copies of receipts of eligible expenses.
- (2) The credit can be claimed only for the tax year the qualified expenses are 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.
- (3) The credit cannot be claimed for eligible homeschool expenses incurred during any semester when the student was enrolled in a public or private school.
- (4) The credit cannot be claimed for expenses incurred during summer or winter breaks between semesters when the student is enrolled in a public or private school.

**(c) Qualified homeschool expenses.**

(1) Qualified expenses for the homeschool tax credit include the following expenditures:

- (A) Tuition and fees for nonpublic learning programs, which may be online or in-person.
- (B) Academic tutoring services, which are provided by an individual or a private academic tutoring facility.
- (C) Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider. Instructional materials mean all materials that are designed for use by students and their teachers as a learning resource and help students to acquire facts, skills, or opinions or to develop cognitive processes.
- (D) Costs or fees for nationally standardized assessments including, but not limited to college admission assessments and advanced placement examinations, as well as the tuition and fees for tutoring or preparatory courses for the assessments or examinations.

(2) Qualified expenses for the homeschool credit do not include internet access, laptops, computers, tablets, screens, or any other device that provides internet access or is required to make use of instructional materials, tutoring, or learning programs.

(3) Each eligible homeschool expense can be claimed only once, even if a taxpayer is claiming the credit for multiple students. For example, the parent of two homeschool students may claim only once the cost of an online learning program subscription even though both students have access to the subscription.

**(d) Annual cap and limitation of credit.** For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed \$5,000,000 annually. The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(e) **Recapture.** The Tax Commission will recapture credits if an audit shows the credits were not claimed for a qualified homeschool expense, the student was enrolled in public or private school for two semesters in that year, or the taxpayer fails to comply with the applicable statutes and regulations.

**710:50-15-174. Credit for students attending an accredited private school exclusively serving students experiencing homelessness**

(a) **General provisions.** Beginning with the 2024-2025 school year, an Oklahoma taxpayer may claim an income tax credit for an eligible student who attends an accredited private school in Oklahoma that exclusively serves students experiencing homelessness.

(b) **Claiming the credit.** To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:

- (1) The name, address, and social security number or ITIN of the taxpayer.
- (2) The name, address, date of birth, and social security number or ITIN of the eligible student.
- (3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parent consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.
- (4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

(c) **Amount of the credit.**

- (1) The amount of the credit for students attending an accredited private school in Oklahoma that exclusively serves students experiencing homelessness shall be \$7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.
- (2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(d) **Payment of the credit.**

- (1) For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.
- (2) Payments will be issued 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.

(e) **Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, a letter will also be sent to the applicant, stating the reason for denial and how to dispute the determination.

(f) **Denial of application.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing, pursuant to the provisions of 68 O.S. § 207(c). The application for hearing and supporting documentation may be submitted either online or by mail to the address indicated on the form.

(1) The following information and documentation must be included with the request:

- (A) A description of the tax credit applied for and the amount in controversy;
- (B) A clear explanation of the alleged error(s) committed by the Tax Commission;
- (C) The legal authority the taxpayer intends to rely upon at hearing;
- (D) A statement of the relief requested; and
- (E) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(2) The application for hearing and documentation will be reviewed. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

(g) **School registration.** Each participating accredited private school that exclusively serves students experiencing homelessness shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

- (1) Name, address, phone number, FEIN, and website of the private school;
- (2) Primary and secondary contact information for the private school, including proof of employment;
- (3) Proof of accreditation from the State Board of Education or another accrediting association; and
- (4) Attestation from the principal or head of the private school that the private school exclusively serves students experiencing homelessness;
- (5) The amount of the cost to educate an eligible student at the private school; and
- (6) Other school identification information as requested by the Tax Commission.

(h) **Annual verification.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment information for the fall and spring semester of the just completed school year:

- (1) The name and address of the private school;
- (2) The total number of instructional days per semester;
- (3) The total number of instructional days the eligible student was enrolled in the private school each semester;
- (4) The name, grade level, address, and date of birth of the eligible student; and
- (5) Any other information requested by the Tax Commission.

**(i) Recapture.** The Tax Commission shall recapture tax credits from the taxpayer if:

- (1) The taxpayer has claimed an eligible student who did not or no longer attends the accredited private school that exclusively serves students experiencing homelessness;
- (2) The private school no longer qualifies as a private school that exclusively serves students experiencing homelessness;
- or
- (3) The taxpayer fails to comply with the applicable statutes and regulations.

**(j) Notification of non-use.** Taxpayers claiming the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student no longer attends the accredited private school that exclusively serves students experiencing homelessness.

#### **710:50-15-175. Credit for students attending an accredited private school primarily serving financially disadvantaged students**

**(a) General provisions.** Beginning with the 2024-2025 school year, an income tax credit is allowed for an eligible student who attends an accredited private school in Oklahoma that primarily serves financially disadvantaged students.

**(b) Claiming the credit.** To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:

- (1) The name, address, and social security number or individual taxpayer identification number (ITIN) of the taxpayer.
- (2) The name, address, date of birth, and social security number or ITIN of the eligible student.
- (3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parent consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.
- (4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

**(c) Amount of the credit.**

- (1) The amount of the credit for students attending an accredited private school in Oklahoma that primarily serves financially disadvantaged students shall be \$7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.
- (2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

**(d) Payment of the credit.**

- (1) For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.
- (2) Payments 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.

**(e) Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, a letter will also be sent to the applicant, stating the reason for denial and how to dispute the determination.

**(f) Denial of application.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c). The application for hearing and supporting documentation may be submitted either online or by mail to the address indicated on the form.

(1) The following information and documentation must be included with the request:

- (A) A description of the tax credit applied for and the amount in controversy;
- (B) A clear explanation of the alleged error(s) committed by the Tax Commission;
- (C) The legal authority the taxpayer intends to rely upon at hearing;
- (D) A statement of the relief requested; and
- (E) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(2) The application for hearing and documentation will be reviewed. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

**(g) School registration.** Each participating accredited private school that primarily serves financially disadvantaged students shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

- (1) Name, address, phone number, FEIN, and website of the private school;
- (2) Primary and secondary contact information for the private school, including proof of employment;
- (3) Proof of accreditation from the State Board of Education or another accrediting association; and
- (4) Attestation from the principal or head of the private school that 90% of the private school's admissions are based on enrolling students whose gross family income is 250% of the federal poverty threshold or below;
- (5) The amount of the cost to educate an eligible student at the private school; and
- (6) Other school identification information as requested by the Tax Commission.

**(h) Annual verification.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment information for the spring 2025 semester. For all subsequent reconciliations,

beginning June 15, 2026, the participating private school shall provide student enrollment information for the fall and spring semester of the just completed school year:

- (1) The name and address of the private school;
- (2) The total number of instructional days per semester;
- (3) The total number of instructional days the eligible student was enrolled in the private school each semester;
- (4) The name, grade level, address, and date of birth of the eligible student; and
- (5) Any other information requested by the Tax Commission.

(i) **Recapture.** The Tax Commission shall recapture tax credits from the taxpayer if:

- (1) The taxpayer has claimed an eligible student who no longer attends the accredited private school that primarily serves financially disadvantaged students;
- (2) The private school no longer qualifies as a private school that primarily serves financially disadvantaged students; or
- (3) Taxpayer fails to comply with the applicable statutes and regulations.

(j) **Notification of non-use.** Taxpayers claiming the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student no longer attends the accredited private school that primarily serves financially disadvantaged students.

## **SUBCHAPTER 19. OKLAHOMA TAXABLE INCOME FOR PARTNERSHIPS**

### **710:50-19-4. Partnerships that make an election under the Pass-Through Entity Tax Equity Act of 2019**

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. §§ 2355.IP-1 et seq.), a partnership may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a partnership that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: ~~710:50:3-49~~710:50-3-47]

## **SUBCHAPTER 21. OKLAHOMA TAXABLE INCOME FOR SUBCHAPTER "S" CORPORATIONS**

### **710:50-21-4. S Corporations that make an election under the Pass-Through Entity Tax Equity Act of 2019**

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. §§ 2355.IP-1 et seq.), a Subchapter S Corporation may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a Subchapter S Corporation that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: ~~710:50:3-49~~710:50-3-47]