

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

710:50-15-118. Parental Choice Tax Credit

(a) **General provisions.** For tax year 2024 and subsequent tax years, a refundable income tax credit is allowed for certain Oklahoma taxpayers who incur 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) **"Another accrediting association"** means an accrediting association approved by the State Board of Education. [See: 70 O.S. § 3-104 and OAC 210:35-33-1 et seq.]

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

(3) **"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.

(4) **"Eligible student"** means a resident of Oklahoma who is eligible to enroll, but is not enrolled, in a public school within the state at educational levels of pre-kindergarten through 12th grade. An **eligible student** is a student who is enrolled in and attends a private school that is accredited by the State Board of Education, or another accrediting association, and is registered with the Oklahoma Tax Commission, or a student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A).

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

(6) **"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.

(7) **"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]

(8) **"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 AGI does not exceed \$150,000.

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

(10) "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. Fees 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.

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

(12) "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.

(13) "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 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 and 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 adjusted gross income (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) 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 must complete and submit a separate application for each eligible student. The taxpayer shall complete and submit the application online, and attach the applicable documentation. Taxpayer will include the following with the application:

(i) Affidavit of Enrollment completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

(I) The designated semester(s) and tax year(s) during which the qualified expenses will be paid;

(II) The name and address of the school;

(III) The name and address of the taxpayer;

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

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

(VI) The net amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the tax year, reduced by any scholarship, discount, or other reduction.

(ii) 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, the taxpayer may be asked 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, taxpayer shall submit the Affidavit for No Filing Requirement (OTC Form 591-A) and an Internal Revenue Service (IRS) Verification of Nonfiling Letter, which provides proof from the IRS that there is no record of a filed tax form for the year requested.

(B) 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 8, 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 January 22, 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 of Enrollment, 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 January 15 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.

(C) 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.

(D) Payment of the credit shall be made by the Tax Commission with an individual warrant 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.

(E) Beginning on November 1, 2024, and each year thereafter, each participating private school will provide electronically an itemized annual statement which shall include the following information for each eligible student for whom the school received a credit payment:

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

(ii) The name and social security number or individual taxpayer identification number (ITIN) of the eligible student;

(iii) The amount of credit received by the private school on behalf of the eligible student;

(iv) Dates of attendance of the eligible student; and

(v) If any of the credit was refunded to the taxpayer, the amount and date of the refund, and the reason for refund.

(F) 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.

(G) Any taxpayer aggrieved by any action of the Tax Commission in the administration of the private school tax credit may file an application for a hearing before the Tax Commission pursuant to the provisions of 68 O.S. § 207(c).

(H) 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.

(4) Private school registration.

(A) Each private school accredited by the State Board of Education or another accrediting association, shall register with the Tax Commission. The application shall include:

- (i) Name, address, phone number and website of the private school;
- (ii) Contact information for the private school administrator; and
- (iii) Documentation of the school's compliance with all relevant state and local regulations, including proof of accreditation.

(B) The registration must be renewed annually by submitting updated information and documentation as required by the Tax Commission.

(C) Taxpayers will only receive the credit for eligible students attending private schools that are registered with the Tax Commission.

(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. Before issuing the credit payment, the Tax Commission will deduct from the amount of the credit due to an Oklahoma taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law. [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;

(3) The tuition and fees for the tax year were paid by someone other than the taxpayer; or

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