

General Information: Explanation of whether various expenditures may qualify for the credit.

April 15, 2005

Dear:

This is in response to your letter dated March 29, 2005 in which you state the following:

I need further clarification about the Education Expense – (line 21) concerning what home school expenses would qualify. What kind of receipts are necessary? If we bought books from a private party, or used E-Bay, would these be accepted receipts? My kids did an Art class with other home-schooled kids, would this class count?

Please send me further information about these questions and maybe including the relevant part of the tax code. Thanks a lot!

According to the Department of Revenue (“Department”) regulations, the Department may issue only two types of letter rulings: Private Letter Rulings (“PLR”) and General Information Letters (“GIL”). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill. Adm. Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

The legal description of the Education Expense Credit can be found in Section 201(m) of the Illinois Income Tax Act (“IITA”; 35 ILCS 5/101 et seq.). That statute provides as follows:

(m) Education expense credit.

Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified education expenses incurred on behalf of the qualifying pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit under this subsection claimed by a family that is the custodian of qualifying pupils exceed \$500. In no event shall a credit under this subsection reduce the taxpayer’s liability under this Act to less than zero. This subsection is exempt from the provisions of Section 250 of this Act.

For purposes of this subsection:

“Qualifying pupils” means individuals who (i) are residents of the State of Illinois, (ii) are under the age of 21 at the close of the school year for which a credit is sought, and (iii) during the school year for which a credit is sought were full-time pupils enrolled in a kindergarten through twelfth grade education program at any school, as defined in this subsection.

“Qualified education expense” means that amount incurred on behalf of a qualifying pupil in excess of \$250 for tuition, book fees, and lab fees at the school in which the pupil is enrolled during the regular school year.

“School” means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code, except that nothing shall be construed to require a child to attend any particular public or nonpublic school to qualify for the credit under this Section.

“Custodian” means, with respect to qualifying pupils, an Illinois resident who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils.

Section 26-1 of the School Code (105 ILCS 5/2601) provides:

Whoever has custody or control of any child between the ages of 7 and 16 years shall cause such child to attend some public school in the district wherein the child resides the entire time it is in session during the regular school terms.

Attached please find the following documents that will help explain the expenses that qualify for the Education Expense Credit: pages 14 and 15 of the 2004 IL-1040 Instructions, Schedule ED, 86 Il.Admin.Code 100.2165 and the Informational Bulletin FY 2000-19, Education Expense Credit for Individuals. On page 14 of the IL-1040 Instructions you will find an explanation for the situation you mention in your letter about not having a receipt from a school showing expenses incurred for this credit. When no school receipt is produced, the taxpayer must complete Schedule ED. On page 15 of the IL-1040 Instructions is the Education Expense Table that guides you through the requirements needed to qualify for this credit. For example, you ask whether books from a private party, or used books from E-bay would qualify. The Table explains that only book rentals will qualify for the credit, not actual book purchases. Thus, purchasing books from private parties or from E-bay will not qualify for the Education Expense Credit.

Your last question asks whether an Art Class with other home-schooled kids would qualify for the Education Expense Credit. The information you provide is not enough for us to make a determination. There are several factors at issue when determining whether an expense qualifies for the Education Expense Credit. For example, does the home school that offered the Art Class meet the requirements of a “school” for purposes of the Education Expense credit? According to 86 Il.Admin.Code 100.2165(b)(3), educational instruction in a home school will meet the definition of “school” for purposes of this credit so long as the attendance requirements of Section 26-1 of the School Code are met. Another determining factor is whether your children were enrolled in this home school during the regular school year. 86 Il.Admin.Code 100.2165(b)(4). We also do not know from your letter what type of expenses you incurred with the Art Class and whether these expenses would qualify for the Education Expense Credit.

Should you have additional questions after reading the enclosures, please feel free to contact me. As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

Sincerely,

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