

General Information Letter: "Home school" costs may qualify for the credit.

May 2, 2005

Dear:

This is in response to your letter which we received on April 13, 2005 in which you state the following:

My name is Mr. Z. I am a tax preparer with COMPANY in CITY IL. I just concluded a phone call with IL tax information. My questions revolved around the education credit for home schoolers. Everyone I have spoken to both inside COMPANY and in Springfield has assured me that home schooling expenses are allowable but, no one can tell me just what expenses qualify. The question arose because of a client with two high school age children who was denied using the credit by COMPANY. Most of her expenses were for curriculum and books, which were not consumed or used up completely during the course of the year. According to the verbatim reading, books not used up do not qualify. In essence then it appears that the state is saying yes home school expenses are allowed but most home schooling expenses are not qualifying expenses. I am requesting a GIL informing us what exactly qualifies as education expense for home schoolers. Specifically do books purchased for use as curriculum qualify? What about workbooks that are filled completely out? Do materials for a science experiment be eligible? What about equipment used in a laboratory setting i.e. beekers, microscopes, etc.? Do field trips qualify if taken for real educational value? What about membership dues to a home schooling group? I sincerely appreciate your kind attention to this matter and feel it would clarify a troublesome area for us in preparing state returns.

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, 86 Il.Admin.Code 100.2165 and the Informational Bulletin FY 2000-19, Education Expense Credit for Individuals.

There are several factors at issue when determining whether an expense qualifies for the Education Expense Credit. For example, does the home school group you refer to 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 the children were enrolled in this home school during the regular school year. 86 Il.Admin.Code 100.2165(b)(4).

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 purchased for use as a curriculum qualify for the credit. The Table explains that only book rentals will qualify, not actual book purchases. You also question whether materials for science experiments and laboratory equipment qualify. If the materials for a science experiment and equipment used in a laboratory are for a class that results in a credit toward completion of a qualifying school’s education program and are substantially consumed by the activities of the lab, the expenses may qualify for the credit. Finally, you ask whether expenses for field trips qualify. According to the specific language of the statute, qualified education expenses relate only to tuition costs, book fees and lab fees. Field trips do not fall under any of these three categories.

Should you have additional questions after reading the enclosures, please feel free to contact me. As

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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,

Heidi Scott

Staff Attorney -- Income Tax