

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2165 Education Expense Credit

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 100
INCOME TAX**

Section 100.2165 Education Expense Credit (IITA 201(m))

- a) *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 IITA Section 201(a) and (b) for qualified education expenses incurred on behalf of the qualifying pupils (the "education expense credit"). The education expense credit shall be equal to 25% of qualified education expenses, but the maximum education expense credit allowed to a family that is the custodian of qualifying pupils shall not exceed \$500 in any tax year ending prior to December 31, 2017, or \$750 for any tax year ending on or after December 31, 2017, regardless of the number of qualifying pupils. The education expense credit taken shall not reduce a taxpayer's liability under the Act to less than zero. Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, if the taxpayer's adjusted gross income for the taxable year exceeds \$500,000, in the case of spouses filing a joint federal tax return or \$250,000, in the case of all other taxpayers, the credit allowed under this Section shall be zero. (IITA Section 201(m)) For purposes of this provision, each spouse is a separate taxpayer. No part of the education expense credit is refundable to the custodian in the event the custodian's tax liability is reduced to zero.*
- b) For a taxpayer to claim the education expense credit, the taxpayer must be the custodian of one or more qualifying pupils and have incurred qualified education expenses on behalf of the qualifying pupils.
- 1) Qualifying Pupils
- A) "Qualifying pupils" shall mean individuals who are:
- i) *residents of the State of Illinois;*
- ii) *under the age of 21 at the close of the school year for which a credit is sought; and*
- iii) *full time pupils enrolled in a kindergarten through twelfth grade education program at any school during the school year for which a credit is sought. (IITA Section 201(m))*
- B) An individual under the age of 21 and graduating from the twelfth grade during a school year shall be considered a qualifying pupil for the year but only to the extent of qualified education expenses incurred by the custodian due to the qualifying pupil's enrollment in the twelfth grade.

- 2) *"Custodian" of qualifying pupils shall mean an Illinois resident(s) who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils. (IITA Section 201(m))*
 - A) A foster parent, or the foster parents, or an adoptive parent, or the adoptive parents shall be included within the meaning of parent or legal guardian for purposes of determining the custodian of qualifying pupils.
 - B) Custodian shall not include a parent or the parents of qualifying pupils whose parental rights over the qualifying pupils have been legally terminated.
 - C) A custodian incurring qualified education expenses on behalf of qualifying pupils may claim the education expense credit only to the extent of qualified education expenses actually paid for by that custodian.
 - D) The education expense credit claimed shall not exceed the applicable \$500 or \$750 credit limit allowable to a family that is the custodian of qualifying pupils. Therefore, the divorced or unmarried parents of qualifying pupils, each of whom is the custodian of the qualifying pupils and each of whom incurs education expenses on behalf of such pupils, shall be considered the family of such qualifying pupils for purposes of the applicable \$500 or \$750 credit limit.
- 3) *"School", for purposes of the education expense credit, 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 [105 ILCS 5/26-1], except that nothing shall be construed to require a child to attend any particular public or nonpublic school in order to qualify for the education expense credit (IITA Section 201(m)). Schools that are not required to be in compliance with the Title VI of the Civil Rights Act of 1964 but attendance at which meets the compulsory education requirements of Section 26-1 of the School Code are included within the meaning of "school" for purposes of the education expense credit. Private schools providing educational instruction in the home, attendance at which meets the compulsory education requirements of Section 26-1 of the School Code, are included within the meaning of "school" for purposes of the education expense credit. For school years prior to the 2014-2015 school year, Section 26-1 of the School Code required attendance beginning with 7-year-olds, who were required to attend first grade or higher. A school that provided kindergarten, but not first grade or higher, did not qualify as a school for which the credit is allowed under this Section. PA 98-544 amended Section 26-1 of the School Code to require attendance in kindergarten or higher for 6-year-olds, starting with the 2014-2015 school year. Accordingly, beginning with the 2014-2015 school year, a school providing kindergarten may qualify, even if it does not provide first grade or higher.*
- 4) Qualified Education Expenses
 - A) *"Qualified education expenses" shall mean amounts incurred on behalf of a qualifying pupil in excess of \$250 for tuition, book fees, and lab fees at*

the school in which the qualifying pupil is enrolled during the regular school year. (IITA Section 201(m)) Amounts incurred for tuition, book fees and lab fees by a family that is the custodian of more than one qualifying pupil may aggregate all tuition, book fees and lab fees incurred by the family in arriving at qualified education expenses eligible for the credit.

- i) Tuition is the amount paid to a school as a condition of enrollment for a quarter, semester or year term in a kindergarten through twelfth grade education program of the school. Enrollment in an education program shall mean admission to the full and regular schedule of classroom instruction of the school during the designated period. Tuition also includes amounts paid as a condition of enrollment on behalf of a school to cover costs of implementing and administering an education program.
 - ii) Book fees are amounts paid for the use of books that are essential to a qualifying pupil's participation in the education program of the school. A book is essential when the school or an instructor of the school requires its use by the qualifying pupil in order to participate in and complete a course of the education program.
 - iii) Lab fees are amounts paid for the use of supplies, equipment, materials or instruments that are essential to a qualifying pupil's participation in a lab course of the school's education program. Supplies, equipment, materials or instruments are essential when the school or an instructor of the school requires their use by the qualifying pupil in order to participate in and complete a lab course of the education program. Lab courses include those courses that, in addition to classroom instruction by a teacher, provide an environment of organized activity involving observation, experimentation or practice in a course of study. Lab courses of study include those courses with a scientific, musical, artistic, technical or language skill content. Lab fees may be in the nature of a rental fee for supplies, equipment, materials or instruments that are used in the lab course. Fees incurred for the purchase of supplies, equipment, materials or instruments used in a lab course and which are substantially consumed by the assignments and activities of the lab are also considered qualifying lab fees.
- B) Any amount paid for the purchase of items that would be considered qualified education expenses but for the fact that the items are not substantially consumed during the school year and will remain the tangible personal property of a qualifying pupil or a custodian at the conclusion of the school year shall not be considered qualified education expenses. For purposes of this Section, an item is substantially consumed when, during the school year, the item is used to the extent that its fair market value has been reduced to a de minimis amount.
- c) Examples. Calculation of the education expense credit may be illustrated by the following examples. For each example, it is assumed that the taxpayer's adjusted gross income for the taxable year is not greater than \$500,000 (in the case of each spouse filing a joint federal income tax return) or \$250,000 (in the case of all other taxpayers).

EXAMPLE 1. Family A is the custodian of 2 qualifying pupils. Family A incurs a total of \$6,000 in tuition, book fees and lab fees for the education of both pupils during the calendar year. The first \$250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of \$5,750 (\$6,000 - \$250) multiplied by 25% equals \$1,437.50. Family A may only claim the maximum tax credit allowable of \$500 (for taxable years ending prior to December 31, 2017) or \$750 (for taxable years ending on or after December 31, 2017).

EXAMPLE 2. Family B is the custodian of one qualifying pupil. Family B incurs a total of \$2,250 in tuition, book fees and lab fees for the education of the qualifying pupil during the calendar year. Family B also incurs \$200 for the purchase of a musical instrument used by the qualifying pupil while participating in the school band. The \$200 incurred for the purchase of a musical instrument is an expense that does not qualify for the credit. The first \$250 incurred for tuition, book fees and lab fees is not included as a qualified education expense. The balance of \$2,000 (\$2,250-\$250) multiplied by 25% equals \$500. Family B may claim a credit for the entire \$500.

EXAMPLE 3. Family C is the custodian of 4 qualifying pupils. Family C incurs a total of \$1,000 in book fees and lab fees for the education of all 4 qualifying pupils during the calendar year. Family C also incurs a total of \$50 for the purchase of books used in completing book reports required by the school. The \$50 incurred for the purchase of books is an expense that does not qualify for the credit. The first \$250 incurred for book fees and lab fees is not included as a qualified education expense. The balance of \$750 (\$1,000 - \$250) multiplied by 25% equals \$187.50. Family C may claim a tax credit of \$187.50.

- d) To aid a custodian in claiming the education expense credit, a school should provide to the custodian a written receipt documenting education expenses paid to the school by the custodian on behalf of qualifying pupils during the calendar year. The written receipt should be provided to the custodian on or before January 31 of the succeeding calendar year. When a school provides a written receipt to a custodian, it should use the form prescribed by the Department and include the following information:
- 1) the designated calendar year during which the education expenses were paid;
 - 2) the name and address of the school;
 - 3) the name and address of the custodian;
 - 4) the name and social security number of the qualifying pupil or pupils;
 - 5) a list of education expense amounts paid for tuition, book fees and lab fees during the calendar year; and
 - 6) the total of all such education expenses paid during the calendar year. All information contained on the written receipt provided by a school is deemed confidential information for use as supporting documentation of the education expense credit claimed and shall not be used for any other purpose.
- e) A custodian filing a return claiming the education expense credit shall maintain records of proof as to the education expenses paid for by the custodian. The custodian shall

maintain the records for a period of not less than 3 years after the date the return on which the custodian claimed the education expense credit was filed. Records maintained by the custodian shall be subject to inspection by the Department and its duly authorized agents and employees.

f) The education expense credit for qualified education expenses incurred must be claimed for the tax year in which the qualified education expenses are actually paid. Any part of the education expense credit not claimed or allowed in a given tax year shall not be carried forward or back to any other tax year. Likewise, where qualified education expenses are incurred in excess of the allowable education expense credit for any given tax year, the excess of qualified education expenses shall not be used in claiming the education expense credit for any other tax year.

g) This Section is exempt from automatic sunset under IITA Section 250.

(Source: Amended at 44 Ill. Reg. 2845, effective February 14, 2020)