

General Information Letter: Tuition paid to a California school for home-based internet schooling does not qualify for the education expense credit.

April 19, 2010

Dear:

This is in response to your letter dated February 24, 2010 in which you state the following:

I have recently spoken with a representative on the phone in regards to whether an internet school would be considered a private school or whether the student is considered to be home schooled. He suggested I write to you and ask for a general information letter as to the ruling for this situation.

I have a client that has paid tuition to SCHOOL in California. This school has an internet program for teaching children at home on the internet. My client does not personally teach her child. All of her instruction comes from the teachers on the internet through SCHOOL.

If my client's child is considered to be home schooled, they will qualify for the IL Education Credit. Although, if this school is considered a private school, they will not qualify since the tuition is being paid to California.

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.tax.illinois.gov/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 statutory language describing the Education Expense Credit is Section 201(m) of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.). In addition to authorizing the Education Expense Credit, the statute defines four terms critical in determining who will qualify for this credit: "qualifying pupils," "qualified education expense," "school," and "custodian." The definition of "school" states that in order to qualify for the Education Expense Credit, the tuition, book fees and lab fees must be paid to a school located in Illinois. As a result, any amounts paid to SCHOOL located in California will not qualify as an expense for purposes of the Illinois Education Expense Credit.

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,

Heidi Scott  
Staff Attorney -- Income Tax