

Explanation of how education expense credit applies to various items used for home schooling purposes. (This is a GIL.)

May 23, 2019

Re: Illinois income tax

Dear Xxxx:

This is in response to your letter received March 11, 2019, in which you request information regarding Illinois income tax. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.tax.illinois.gov.

Your letter states as follows:

I am inquiring about qualified education expenses of home schooled student for tax year 2018 prior to filing. After reading the guidelines on PUB-119 (R-02/18) and speaking with a representative at the Springfield office of the Illinois Department of Revenue, I am writing to confirm that the following are qualified education expenses for home schooled students. The following expenses are justified using the Illinois Department of Revenue Education Expense Credit General Rules and Requirements for Home Schools.

1. Consumable school supplies used for the subjects of math, science, social studies, language arts, and the fine arts. These would include paper, pencils, art supplies, and other consumable school supplies. I consider these lab fees for the "supplies, equipment, materials, and instruments," as required by my child's lab course, as defined by my home school curriculum.
2. Local children's museum and local zoo membership would qualify under lab fees. My child uses our local children's museum and zoo on a regular basis as part of our lab course in the areas of science, music, and the fine arts. My child uses these facilities for "observation, experimentation, or practice" as part of the "student's education program." A family membership is required to these facilities, because my child's father and I are my child's teachers.
3. Private piano lessons qualify as tuition to fulfill my child's fine art requirements. This would be the equivalent of "fees paid for the child to satisfy physical education class requirement at a private facility such as a health club."

RULING

The legal description of the Education Expense Credit can be found in Section 201(m) of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/1-1 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 (i) \$500 for tax years ending prior to December 31, 2017, and (ii) \$750 for tax years ending on or after December 31, 2017. In no event shall a credit under this subsection reduce the taxpayer's liability under this Act to less than zero. Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, no taxpayer may claim a credit under this subsection (m) if the taxpayer's adjusted gross income for the taxable year exceeds (i) \$500,000, in the case of spouses filing a joint federal tax return or (ii) \$250,000, in the case of all other taxpayers. 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 the 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 parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils.

Bold emphasis added. Qualified education expenses are further defined in Section 100.2165(b)(4) of the Department's Income Tax Rules, 86 Ill. Adm. Code 100.2165(b)(4), which provides:

4) *"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.

A) 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.

- B) 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.
- C) 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. Such 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.

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 such an extent that its fair market value has been reduced to a de minimis amount.

Bold emphasis added. Assuming that the items are substantially consumed during the school year, the "consumable school supplies" listed in your first numbered paragraph appear to be consistent with the definition of "lab fees" provided by Section 100.2165(b)(4)(C) of the Department's Income Tax Rules, 86 Ill. Adm. Code 100.2165(b)(4)(C). Assuming that all other requirements of Section 201(m) of the IITA are met, items considered "lab fees" would be considered "qualified education expenses" eligible for the Education Expense Credit.

Although they may be used a part of a lab course where your child will observe, experiment, or practice, as described, the children's museum and local zoo membership would not meet the definition of "qualified education expenses" under "lab fees" because they are personal property which are not significantly used up during the student's participation in the class and will remain the property of the student, parent or legal guardian at the end of the school year. Section 10-19 of the Illinois School Code, 105 ILCS 5/10-19, requires 176 days of actual pupil attendance. That leaves 189 days where the memberships are valid to be used for non-school related attendance. Because of this, the

memberships are not substantially consumed throughout the year and are not considered “qualified education expenses.” If the memberships were only valid during the school year, and were, therefore, substantially consumed during the school year, then they may qualify as lab fees eligible for the Education Expense Credit.

Under 86 Ill. Adm. Code 100.2165(b)(4), “tuition” is defined as “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.” As long as the lessons are being taken as part of a kindergarten through twelfth grade education program, your child receives credit for attending and successfully completing the coursework at the lessons, and the other requirements of Section 201(m) of the IITA are met, they should meet the requirements of qualified educational expenses eligible for the Education Expense Credit.

This analysis is consistent with the description of “what are qualified education expenses for home schooled students?” in Publication 119, a publication you refer to in your letter. Page 3 of Publication 119 states:

“Specifically, qualified education expenses for home schooled children include the amount of

- **tuition** paid for a student who was in the equivalent of kindergarten through twelfth grade. This includes fees paid for the child to satisfy physical education class requirements at a private facility such as a health club.
- **fees for the purchase of student’s workbooks or teacher’s grade books** that are significantly used up during the activities of the class. These expenses qualify even if they were paid to an out-of-state company.
- **book rental fees** paid for the rental of books that were required as part of the student’s education program.
- **curriculum rental fees** paid for the rental of educational items such as lectures or class lessons on DVD or tape.
- **lab fees** paid for the use of supplies, equipment, materials, or instruments that were required as part of a lab course in the student’s education program.

Lab courses include those courses, for which the student will receive credit toward graduation, that provide an environment for organized activity involving observation, experimentation, or practice, *i.e.*, science, music, art, or language.

Note → Any purchased equipment, materials, or instruments that are significantly used up by the assignments and activities of the lab are considered qualified lab fees.

- **shipping charges** paid to receive a qualified item.
- **sales or use taxes** paid when purchasing a qualified item.

...

Education expenses that do not qualify for an education expense credit include the amount of

- expenses paid to purchase items that are not significantly used up during the student's participation in the class (e.g., non-consumable textbooks, flash cards, wall maps, calculators, etc.).
- expenses paid to purchase an item that will remain the personal property of the student, parent, or legal guardian at the end of the school year (e.g., payments made toward the purchase of a band instrument or athletic equipment).
- **mileage or travel expenses** paid to travel to school, lab activities, or field trips.
- **expenses paid for tutoring or enrichment classes** that do not count toward meeting the required curriculum.”

Emphasis added.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions regarding this letter, you may contact me at (217) 782-2844.

Sincerely,

Michael D. Mankowski
Associate Counsel - Income Tax