

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME
SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME
PART 7. CREDITS AGAINST TAX

710:50-15-119. Parental Choice Tax Credit

(a) **General provisions.** There is hereby created the Oklahoma Parental Choice Tax Credit Program to provide an income tax credit to a taxpayer for qualified expenses to support the education of eligible students in Oklahoma. For tax year 2024 and subsequent tax years, there shall be allowed against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes a refundable income tax credit for any Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student. [See: 70 O.S. 2023, § 28-100, et seq.]

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Curriculum"** means a complete course of study for a particular content area or grade level.

(2) **"Education service provider"** means a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students.

(3) **"Eligible student"** means a resident of Oklahoma who is eligible to enroll in a public school within the state at educational levels of pre-kindergarten through 12th grade. Eligible student shall include a student who is enrolled in and attends a private school in Oklahoma that is accredited by the State Board of Education or another accrediting association or a student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A).

(4) **"Home school tax credit"** means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(b).

(5) **"Household"** means the persons who reside in the same home as and provide financial support for the eligible student as of the date the application for the tax credit is submitted.

(6) **"Oklahoma taxpayer"** means:

(A) Any person owing or liable to pay any Oklahoma tax;

(B) Any person required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or

(C) Any person required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law. [See: 68 O.S. § 202]

(7) **"Priority consideration"** means an application will be reviewed and considered for approval before other applications received by the Tax Commission, regardless of whether the other applications were submitted on an earlier date. An application for the private school tax credit will only receive **priority consideration** if submitted on or before the deadline set by the Tax Commission and for an eligible student who is a member of a

household in which the total federal adjusted gross income (AGI) does not exceed \$150,000.

(8) "**Private school tax credit**" means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(a).

(9) "**Qualified expense**" means:

(A) For the purpose of claiming the private school tax credit in subsection (c) of this Section, **qualified expense** means tuition and fees at a private school accredited by the State Board of Education or another accrediting association. Although not an exhaustive list fees may include enrollment, registration, or application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school.

(B) For the purpose of claiming the home school tax credit in subsection (d) of this Section, **qualified expense** means the following expenditures:

(i) Tuition and fees for nonpublic online learning programs;

(ii) Academic tutoring services provided by an individual or a private academic tutoring facility;

(iii) Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider; and

(iv) Fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments.

(10) "**Second preceding tax year**" means the tax year occurring two taxable years prior to the tax year for which the credit application is submitted.

(11) "**Taxpayer**" means an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(A) A foster parent, or the foster parents, shall be included within the meaning of other person with legal authority to act on behalf of an eligible student.

(B) Taxpayer shall not include a parent or the parents of an eligible student whose parental rights over the eligible student has been legally terminated.

(12) "**Warrant**" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A **warrant** operates like a paper check.

(c) **Private school tax credit.**

(1) **Amount of credit.** If the eligible student attends or will attend a private school accredited by the State Board of Education or another accrediting association, the credit amount shall be equal to the amount of tuition and fees charged to or that will be paid by the taxpayer for attending the private school, subject to the following limitations:

(A) The maximum credit amount allowed is \$7,500 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year does not exceed \$75,000;

(B) The maximum credit amount allowed is \$7,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$75,000 but does not exceed \$150,000;

(C) The maximum credit amount allowed is \$6,500 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$150,000 but does not exceed \$225,000;

(D) The maximum credit amount allowed is \$6,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$225,000 but does not exceed \$250,000;
or

(E) The maximum credit amount allowed is \$5,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$250,000.

(2) Annual cap and limitation of credit.

(A) The total amount of private school tax credits is subject to the following caps:

(i) For tax year 2024, the total amount of credits shall not exceed \$150,000,000.

(ii) For tax year 2025, the total amount of credits shall not exceed \$200,000,000.

(iii) For tax year 2026, and subsequent tax years, the total amount of credits shall not exceed \$250,000,000.

(B) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. 2023, § 28-101(l).

(3) Claiming the private school tax credit.

(A) Pursuant to 70 O.S. §28-101(C)(1)(a) for the tax year 2024 and subsequent tax years, if an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the tax year, the taxpayer may be eligible to claim the private school tax credit. If a taxpayer has more than one eligible student, the taxpayer may complete and submit a single application that includes each eligible student. The taxpayer shall complete and submit the application online, and attach the applicable documentation, which includes an Affidavit (Enrollment Verification Form). Taxpayer shall include the following with the application:

(i) The name, address, and social security or individual taxpayer identification number (ITIN) of the taxpayer;

(ii) The name, address, date of birth, and social security number or individual taxpayer identification number (ITIN) of the eligible student(s);

(iii) The name and address of the eligible student's parent(s) or legal guardians(s), if different from the taxpayer; and

(iv) Verification of federal AGI for the second preceding tax year for the household of which the eligible student is a member, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). For example, if a taxpayer is applying for the private school tax credit for tax year 2024 and has not previously filed an Oklahoma income tax return or the Tax Commission cannot verify a tax return has been filed the taxpayer may be required to provide a copy of the 2022 Oklahoma income tax return or federal income tax return of the household, even if the student did not reside in the household during that reporting period. If the household had no tax filing requirement, the taxpayer shall submit an Affidavit for No Filing Requirement and/or an Internal Revenue Service (IRS) Verification of Non-filing Letter, which provides proof from the IRS that there is no record of a filed tax form for the tax year requested.

(B) The Tax Commission will make available an Affidavit (Enrollment Verification Form) to be completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

(i) The name, address and date of birth of eligible student.

(ii) The designated semester(s) and tax year during which the qualified expenses will be paid;

(iii) The name and address of the school;

(iv) The name and telephone number of a contact person(s) with the private school;

(v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the tax year.

(C) The private school tax credit shall be exclusively claimed through the submission of an application, as set out in this paragraph. The credit cannot be claimed on the Oklahoma income tax return.

(i) The application process for tax year 2024 will commence on December 1, 2023, at 8:30 a.m. (CST). For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1, 2024, to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E). The application shall include qualified expenses paid or expected to be paid for tax year 2024.

(ii) If the application is approved, the credit will be paid in two installments. Each installment will be half of the amount of the anticipated private school tuition and fees the taxpayer expects to incur during the tax year based on the private school's Affidavit (Enrollment Verification Form), or half the amount of the allowable credit, whichever is less.

(iii) The application deadline is on or before December 31 of the tax year the taxpayer incurs a qualified expense on behalf of an eligible student or until the annual cap has been met, whichever occurs first.

(iv) The application process for subsequent tax years will commence at 8:30 a.m. (CST) on December 1 preceding the applicable tax year. For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1 of the applicable tax year to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E).

(v) If December 1 falls on a Saturday, Sunday or legal holiday, the application process will open on the next day that is not a Saturday, Sunday or legal holiday.

(D) After all timely-filed applications entitled to priority consideration have been reviewed and processed, the Tax Commission will review and process remaining applications for the credit in the order received, provided the annual cap has not been reached.

(E) Installment payments of the credit shall be made by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll. The taxpayer shall restrictively endorse the warrant to the private school for deposit into the account of the school unless the tuition and fees for the eligible student have already been paid by the taxpayer.

(F) Each participating private school will respond electronically to the Tax Commission's request to verify certain information to determine if the refundable tax credit was applied toward a qualified expense during the applicable tax year. Responses to the requested information are due on or before November 1 of each year. Information requested for verification shall include the following information for each eligible student for whom the school received a credit payment for the current tax year:

(i) The name and address of the private school;

(ii) The amount of credit received by the private school on behalf of the eligible student;

(iii) Dates of attendance of the eligible student; and

(iv) The name, address and date of birth of eligible student.

(G) The credit can be claimed only for the tax year in which the qualified expenses are actually incurred. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(H) If a taxpayer's application for the credit is denied, the taxpayer may file an application for a hearing before the Tax Commission pursuant to the provisions of 68 O.S. § 207(c).

(I) The total federal AGI of a student's household shall be determined as follows:

(i) If the student's parents or custodians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or custodians' second preceding year tax return will be used.

(ii) If the student's parents or custodians have an income tax filing status of "married, filing separately", the parents' or custodians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the student's household federal AGI.

(iii) If the student's household includes any additional person that is providing financial support to the student, the additional person's federal AGI for the second preceding tax year will be added to the federal AGI of the parents or custodians for the second preceding tax year.

(J) Each private school accredited by the State Board of Education or another accrediting association, shall initially complete an online Participation Agreement with the Tax Commission. The Participation Agreement shall include:

(i) Name, address, phone number, FEIN, and website of the private school;

(ii) Contact information for the private school;

(iii) Proof of accreditation from the State Board of Education or another accrediting association; and

(iv) Other school identification information.

(d) Home school tax credit.

(1) If the eligible student is educated pursuant to the other means of education exception [70 O.S. § 10-105(A)] the maximum annual credit amount shall be \$1,000 per eligible student.

(2) For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed \$5,000,000 annually.

(3) The tax credit may be claimed on the applicable tax year's Oklahoma income tax return.

(4) The credit must be claimed for the tax year in which the qualified expenses are actually incurred and paid. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(e) Records. A taxpayer claiming the Parental Choice Tax Credit shall maintain records of proof as to the qualified expenses paid for by the taxpayer. Records maintained by the taxpayer shall be subject to inspection by the Tax Commission and its duly authorized agents and employees.

(f) Offset. Pursuant to 68 O.S. §205.2(F) the Tax Commission shall deduct from the amount of the credit due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law prior to payment of such refund. [See 68 O.S. § 205.2(F)]

(g) Recapture. The Tax Commission shall recapture tax credits if:

(1) The credit was claimed for expenditures that were not qualified expenses;

(2) The taxpayer has claimed an eligible student who no longer attends a private school or has enrolled in a public school for the period for which the credit was claimed; or

(3) Taxpayer fails to comply with any other provisions of 70 O.S. 2023, § 28-100, et seq.

PARENTAL CHOICE TAX CREDIT - PRIV FAQs

What is the private school tax credit?

Beginning in tax year 2024, a refundable income tax credit is allowed for certain Oklahoma taxpayers who pay, or expect to pay, tuition and fees to an eligible private school on behalf of an eligible student. An eligible taxpayer is someone who is subject to the tax laws of the state of Oklahoma, and who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of the eligible student.

How do I apply?

To claim the private school tax credit, you will apply online. You will need to upload with the application a completed Affidavit (Enrollment Verification Form) and verification of Federal AGI for the second preceding tax year of the household of which the student is a member which may include providing copies of applicable Oklahoma income tax return(s) or federal income tax return(s). If the household had no tax filing requirement, taxpayer shall submit the Affidavit for No Filing Requirement and/or an Internal Revenue Service (IRS) Verification of Nonfiling Letter, which provides proof from the IRS that there is no record of a filed tax form for the year requested.

How do I get an IRS Verification of Non-filing Letter?

To receive your verification letter, you'll need to complete a Form 4506-T with the IRS. If you are requesting the letter for the current or prior three tax years and you have previously filed taxes, you can usually do this online, which will likely be the easiest way to submit the

information and obtain your letter. However, if you need the letter for any year before the previous three years or you've never filed taxes before, you'll need to request your non-filing letter by phone or submit Form 4506-T through snail mail.

Who qualifies as an Oklahoma taxpayer?

An Oklahoma taxpayer is any person who is liable to pay any Oklahoma tax, or required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law or required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law.

I am a resident of a state other than Oklahoma; however, I am a military servicemember currently stationed in Oklahoma and am the parent of an eligible student. Am I eligible for the private school tax credit?

A nonresident military servicemember stationed in Oklahoma qualifies as an eligible Oklahoma taxpayer.

Who qualifies as an eligible student?

A student who is a resident of Oklahoma who is eligible to enroll in an Oklahoma public school. Eligible student shall include a student who is enrolled in and attending an eligible private school in Oklahoma if it is accredited by the State Board of Education or another accrediting association.

Is my private school an eligible accredited private school?

A private school is considered eligible if it is accredited by the State Board of Education or another accrediting association.

What expenses qualify?

"Qualified expense" means tuition and fees at a private school accredited by the State Board of Education or another accrediting association. Although not an exhaustive list, fees include enrollment, registration, or application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school.

Do I apply for the credit once a year, or do I need to apply before each school semester?

Only one application is required for each tax year. For tax year 2024, the application process opens on December 1, 2023. Each year thereafter, you can apply for the credit beginning on the first day of December preceding the applicable tax year. For example, the application process opens on December 1, 2024, for tax year 2025. The deadline to apply is on or before December 31 of the tax year you incur private school tuition and fees, or until the cap has been met, whichever occurs first.

If my student's household income is less than \$150,000, what do I need to do to receive priority consideration?

For tax year 2024, the application period for students with household income of less than \$150,000, will be December 1, 2023, through February 1, 2024. For tax year 2025 and subsequent tax years, the application period for students with household income of less than \$150,000, will be December 1st (preceding the applicable tax year)

through February 1st. Applications will be processed on a first-come-first-serve basis. Please note that submitting an application during this period does not guarantee eligibility for the credit. Only properly submitted applications approved by the OTC will be eligible for the credit until the cap is met.

How much is the cap for the private school tax credit?

For tax year 2024, the OTC cannot authorize more than \$150 million tax credits.

For tax year 2025, the OTC cannot authorize more than \$200 million tax credits.

For tax year 2026 and subsequent tax years, the OTC cannot authorize more than \$250 million tax credits.

What does the "second preceding tax year" mean?

If you are applying for the private school tax credit for tax year 2024, you may be required to provide a copy of the 2022 Oklahoma income tax return or federal income tax return of the student's current household.

If I am the grandparent of the student, am paying the student's private school tuition in 2024, and the student has never lived with me, am I required to provide a copy of my tax return or the tax return of the household where the student lives?

You may be required to provide a copy of the Oklahoma income tax return or the federal income tax return for the second preceding tax year

of the household where the student resides.

What if the student did not live with me in 2022?

If the student is living with you now but did not live with you in 2022, you still may be required to provide a copy of your 2022 income tax return. The amount of your 2022 federal adjusted gross income (AGI) determines the amount of credit for which your student may be eligible.

What is the maximum amount of tax credit for which I may be eligible?

The maximum amount of the credit is determined by the total federal AGI of the student's household during the second preceding tax year.

FEDERAL AGI	MAXIMUM AMOUNT OF CREDIT PER YEAR
Up to \$75,000	\$7,500
\$75,001 - \$150,000	\$7,000
\$150,001 - 225,000	\$6,500
\$225,001 - \$250,000	\$6,000
\$250,001 and up	\$5,000

If I and my spouse have an income tax filing status of "married, filing separately", how do we determine the amount of federal AGI?

If you have an income tax filing status of "married, filing separately", the federal AGI reported on each tax return for the second preceding tax year will be added together to determine the student's household federal AGI.

If my application is approved, how much tax credit will I receive?

The credit amount will be based on the anticipated private school tuition and fees you expect to pay for the tax year, as indicated in the private school's Affidavit (Enrollment Verification Form). Each installment payment will not exceed half of the allowable credit for the applicable tax year.

What If I have more than one child who is eligible for the credit?

In the case of having multiple eligible students, the taxpayer may receive the tax credit for each eligible student. For example, if the federal AGI of the household where the students reside is less than \$75,000, the taxpayer may qualify for up to \$7,500 per year per eligible student. Taxpayers will have the ability to complete one application for multiple eligible students.

If my student is graduating in the spring of 2024, will I be allowed to use all my 2024 tax credit for the tuition and fees I paid for the one semester?

No, the amount of your credit will be limited to half the amount of your 2024 allowable credit, not to exceed the amount of tuition and fees for the one semester.

If my expenses exceed my credit, can I use the following year's credit to pay this year's expenses?

The credit can be claimed only for the tax year in which the qualified expenses are actually incurred. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses cannot be used in claiming the credit for any other tax year.

If I owe delinquent taxes to the Tax Commission or a debt to any local entity in Oklahoma or Oklahoma state agency, will my credit payment be reduced as a result of my outstanding obligations?

Before issuing the credit payment, the Tax Commission will deduct from the amount of the credit any outstanding state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law. Additionally, if the Tax Commission has received notice from another state or county entity that the taxpayer has an outstanding debt, the Tax Commission will deduct from the tax credit payment the amount owed to that entity, plus any collection expenses and costs.

PARENTAL CHOICE TAX CREDIT - HOM

What is the homeschool tax credit?

Beginning in tax year 2024, a refundable income tax credit is allowed for certain Oklahoma taxpayers who pay qualified expenses on behalf of an eligible student who is homeschooled.

What is the maximum amount of tax credit for which I may be eligible each year?

The credit will be based on the amount of annual qualified expenses paid on behalf of each eligible student, not to exceed \$1,000 per student.

Who is eligible for this tax credit?

An Oklahoma taxpayer who is the biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

I am a resident of a state other than Oklahoma; however, I am a military servicemember currently stationed in Oklahoma and am the parent of an eligible student. Am I eligible for the homeschool tax credit?

A nonresident military servicemember stationed in Oklahoma qualifies as an eligible Oklahoma taxpayer.

Who qualifies as an eligible student?

A student who is a resident of Oklahoma and who is eligible to enroll in a public school in Oklahoma but receives their education by means other than a public or private school during the school year.

What expenses qualify?

Expenses the taxpayer paid during the tax year for:

Tuition and fees for nonpublic online learning programs;

Academic tutoring services provided by an individual or a private academic tutoring facility;

Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider; and

Fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments.

How do I claim the credit?

The credit will be claimed on the Oklahoma income tax return. For example, the credit for tax year 2024 will be claimed on the 2024 Oklahoma income tax return which will be filed in 2025. Receipts supporting the claimed expenses will be required to be submitted with the tax return.

If my expenses exceed my credit, can I use the following year's credit to pay this year's expenses?

The credit can be claimed only for the tax year in which the qualified expenses are actually paid. Where qualified expenses are paid in excess of the allowable credit for any given tax year, the excess of qualified expenses cannot be used to claim the credit for any other tax year.

If my child is homeschooled for only part of the year, am I eligible for the credit?

If your student is homeschooled at any time during the year, you may be eligible to claim the credit for eligible expenses paid within that tax year. However, it's important to note that the homeschool credit cannot be claimed for expenses paid during or for a semester in which the eligible student is enrolled in a private or public school.

If my child attended private school and was homeschooled during the same year, am I eligible for both the private school tax credit and the homeschool tax credit?

If qualified expenses are paid for an eligible student who attends a private school and is homeschooled within the same year, but during different semesters, you have the opportunity to claim both credits. However, it's important to note that the homeschool credit cannot be claimed for expenses paid during or for a semester in which the eligible student is enrolled in a private or public school.

Will I have to pay income tax on the homeschool tax credit?

If your Federal AGI includes any refund from the homeschool credit, the refund amount included in your Federal AGI will also be included in your Oklahoma taxable income. Please contact your own tax professional if you need more information.

Will I receive a 1099-G from the OTC?

Form 1099-G is for certain types of government payments, such as unemployment compensation, state or local income tax refunds, credits or offsets. The OTC will issue a Form 1099-G to taxpayers who claim the homeschool credit and receive a refund.