

Reg. Section 1.25A-1(b)

Calculation of education tax credit and general eligibility requirements

(a) Amount of education tax credit. An individual taxpayer is allowed a nonrefundable education tax credit against income tax imposed by chapter 1 of the Internal Revenue Code for the taxable year. The amount of the education tax credit is the total of the Hope Scholarship Credit (as described in §1.25A-3) plus the Lifetime Learning Credit (as described in §1.25A-4). For limitations on the credits allowed by subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code, see section 26.



(b) Coordination of Hope Scholarship Credit and Lifetime Learning Credit.

(1) In general. In the same taxable year, a taxpayer may claim a Hope Scholarship Credit for each eligible student's qualified tuition and related expenses (as defined in §1.25A-2(d)) and a Lifetime Learning Credit for one or more other students' qualified tuition and related expenses. However, a taxpayer may not claim both a Hope Scholarship Credit and a Lifetime Learning Credit with respect to the same student in the same taxable year.

(2) Hope Scholarship Credit. Subject to certain limitations, a Hope Scholarship Credit may be claimed for the qualified tuition and related expenses paid during a taxable year with respect to each eligible student (as defined in §1.25A-3(d)). Qualified tuition and related expenses paid during a taxable year with respect to one student may not be taken into account in computing the amount of the Hope Scholarship Credit with respect to any other student. In addition, qualified tuition and related expenses paid during a taxable year with respect to any student for whom a Hope Scholarship Credit is claimed may not be taken into account in computing the amount of the Lifetime Learning Credit.

(3) Lifetime Learning Credit. Subject to certain limitations, a Lifetime Learning Credit may be claimed for the aggregate amount of qualified tuition and related expenses paid during a taxable year with respect to students for whom no Hope Scholarship Credit is claimed.

(4) Examples. The following examples illustrate the rules of this paragraph (b):

Example (1). In 1999, Taxpayer A pays qualified tuition and related expenses for his dependent, B, to attend College Y during 1999. Assuming all other relevant requirements are met, Taxpayer A may claim either a Hope Scholarship Credit or a Lifetime Learning Credit with respect to dependent B, but not both. See §1.25A-3(a) and §1.25A-4(a).

Example (2). In 1999, Taxpayer C pays \$2,000 in qualified tuition and related expenses for her dependent, D, to attend College Z during 1999. In 1999, Taxpayer C also pays \$500 in qualified tuition and related expenses to attend a computer course during 1999 to improve Taxpayer C's job skills. Assuming all other relevant requirements are met, Taxpayer C may claim a Hope Scholarship Credit for the \$2,000 of qualified tuition and related expenses attributable to dependent D (see §1.25A-3(a)) and a Lifetime Learning

Credit (see §1.25A-4(a)) for the \$500 of qualified tuition and related expenses incurred to improve her job skills.

Example (3). The facts are the same as in Example 2, except that Taxpayer C pays \$3,000 in qualified tuition and related expenses for her dependent, D, to attend College Z during 1999. Although a Hope Scholarship Credit is available only with respect to the first \$2,000 of qualified tuition and related expenses paid with respect to D (see §1.25A-3(a)), Taxpayer C may not add the \$1,000 of excess expenses to her \$500 of qualified tuition and related expenses in computing the amount of the Lifetime Learning Credit.

(c) Limitation based on modified adjusted gross income.

(1) In general. The education tax credit that a taxpayer may otherwise claim is phased out ratably for taxpayers with modified adjusted gross income between \$40,000 and \$50,000 (\$80,000 and \$100,000 for married individuals who file a joint return). Thus, taxpayers with modified adjusted gross income above \$50,000 (or \$100,000 for joint filers) may not claim an education tax credit.

(2) Modified adjusted gross income defined. The term modified adjusted gross income means the adjusted gross income (as defined in section 62) of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933 (relating to income earned abroad or from certain U.S. possessions or Puerto Rico).

(3) Inflation adjustment. For taxable years beginning after 2001, the amounts in paragraph (c)(1) of this section will be increased for inflation occurring after 2000 in accordance with section 1(f)(3). If any amount adjusted under this paragraph (c)(3) is not a multiple of \$1,000, the amount will be rounded to the next lowest multiple of \$1,000.

(d) Election. No education tax credit is allowed unless a taxpayer elects to claim the credit on the taxpayer's federal income tax return for the taxable year in which the credit is claimed. The election is made by attaching Form 8863, "Education Credits (Hope and Lifetime Learning Credits)," to the Federal income tax return.

(e) Identification requirement. No education tax credit is allowed unless a taxpayer includes on the federal income tax return claiming the credit the name and the taxpayer identification number of the student for whom the credit is claimed. For rules relating to assessment for an omission of a correct taxpayer identification number, see section 6213(b) and (g)(2)(J).

(f) Claiming the credit in the case of a dependent.

(1) In general. If a student is a claimed dependent of another taxpayer, only that taxpayer may claim the education tax credit for the student's qualified tuition and related expenses. However, if another taxpayer is eligible to, but does not, claim the student as a dependent, only the student may claim the education tax credit for the student's qualified tuition and related expenses.

(2) Examples. The following examples illustrate the rules of this paragraph (f):

Example (1). In 1999, Taxpayer A pays qualified tuition and related expenses for his dependent, B, to attend University Y during 1999. Taxpayer A claims B as a dependent on his federal income tax return. Therefore, assuming all other relevant requirements are met, Taxpayer A is allowed an education tax credit on his federal income tax return, and

B is not allowed an education tax credit on B's federal income tax return. The result would be the same if B paid the qualified tuition and related expenses. See §1.25A-5(a). Example (2). In 1999, Taxpayer C has one dependent, D. In 1999, D pays qualified tuition and related expenses to attend University Z during 1999. Although Taxpayer C is eligible to claim D as a dependent on her federal income tax return, she does not do so. Therefore, assuming all other relevant requirements are met, D is allowed an education tax credit on D's federal income tax return, and Taxpayer C is not allowed an education tax credit on her federal income tax return, with respect to D's education expenses. The result would be the same if C paid the qualified tuition and related expenses on behalf of D. See §1.25A-5(b).

(g) Married taxpayers. If a taxpayer is married (within the meaning of section 7703), no education tax credit is allowed to the taxpayer unless the taxpayer and the taxpayer's spouse file a joint Federal income tax return for the taxable year.

(h) Nonresident alien taxpayers and dependents. If a taxpayer or the taxpayer's spouse is a nonresident alien for any portion of the taxable year, no education tax credit is allowed unless the nonresident alien is treated as a resident alien by reason of an election under section 6013(g) or (h). In addition, if a student is a nonresident alien, a taxpayer may not claim an education tax credit with respect to the qualified tuition and related expenses of the student unless the student is a claimed dependent (as defined in §1.25A-2(a)).