

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to tuition and textbook tax credit
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.12 as amended by 2021 Iowa Acts, House File 847, sections 7 and 8.

Purpose and Summary

This proposed rule making is intended to implement statutory changes related to eligibility for the tuition and textbook tax credit and the rate of the credit. 2021 Iowa Acts, House File 847, increases the tax credit rate to 25 percent of the first \$2,000 of eligible expenses from 25 percent of the first \$1,000 of eligible expenses for tax years beginning on or after January 1, 2021. The legislation also expands eligibility for the credit to taxpayers whose dependents receive private instruction. Previously, the credit was limited to taxpayers whose dependents attend a public or private elementary or secondary school in Iowa.

The proposed rule making clarifies that a tuition or textbook expense must be required by an elementary or secondary school in Iowa to be eligible for the credit. The rule making provides a list of examples of tuition items that may be eligible for the credit. The rule making also adds examples of extracurricular expenses that will or will not qualify for the credit.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10547
Des Moines, Iowa 50306
Phone: 515.587.0440
Email: kurt.konek@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

November 15, 2021
2 to 3 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Kurt Konek before 4:30 p.m. on November 12, 2021, to facilitate an orderly hearing. A video link or conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 701—42.4(422) as follows:

701—42.4(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa. ~~Effective for tax years beginning on or after January 1, 1998, taxpayers~~ Taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in an Iowa school may receive a tax credit of 25 percent of up to ~~\$1,000~~ \$2,000 (\$1,000 for tax years beginning prior to January 1, 2021) of qualifying expenses for each dependent ~~attending who receives private instruction, as defined in Iowa Code section 422.12(1) as amended by 2021 Iowa Acts, House File 847, or attends an elementary or secondary school located in Iowa. A taxpayer whose dependent receives private instruction is only eligible for the tuition and textbook credit for tax years beginning on or after January 1, 2021.~~

~~For a taxpayer whose dependent attends an elementary or secondary school, in order for the taxpayer to qualify for the tax credit for tuition and textbooks~~ tuition and textbook credit, the elementary school or secondary school that the dependent is attending must meet the standards for accreditation of public and nonpublic schools in Iowa provided in Iowa Code section 256.11. In addition, the school the dependent is attending must not be operated for profit and must adhere to the provisions of the United States Civil Rights Act of 1964, and the provisions of Iowa Code chapter 216, which is known as the Iowa civil rights Act of 1965. ~~The following definitions and criteria apply to the determination of the tax credit for amounts paid by the taxpayer for tuition and textbooks for a dependent attending an elementary or secondary school in Iowa:~~

42.4(1) Tuition. For purposes of the tuition and textbook tax credit, “tuition” means any charge ~~made by an elementary or secondary school~~ for the expense of personnel, buildings, equipment, and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching of only those subjects that are legally and commonly taught in public elementary or secondary schools in Iowa. “Tuition” includes charges by a qualified school for summer school classes or for ~~private instruction of a child who is physically unable to attend classes at the site of the elementary or secondary school.~~ Expenses paid by a taxpayer, including a taxpayer whose dependent receives private instruction, for equipment and materials other than textbooks must be for equipment and materials required for attendance by any accredited elementary or secondary school in Iowa in order to be eligible for the tuition and textbook tax credit. The following are examples of equipment and materials that may qualify for the credit provided they are required for attendance:

- a. Pocket folders and binders.
- b. Spiral notebooks and loose-leaf paper.
- c. Writing utensils including pens, pencils, highlighters, colored pencils, crayons, and markers.
- d. Backpacks.
- e. Rulers.
- f. Calculators.
- g. Scissors.
- h. Flash drives.
- i. Computers, including rental fees paid to a school for the use of a computer.
- j. Facial tissues.
- k. Antibacterial products.
- l. Protective face coverings.

“Tuition” does not include charges or fees which relate to the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship. In addition, “tuition” does not include amounts paid to an individual or other entity for ~~private instruction of a dependent who attends an elementary or secondary school in Iowa.~~ instruction that is supplementary to elementary or secondary school instruction or private instruction. Amounts paid to an elementary or secondary school or to a person providing private instruction for meals, lodging, or clothing for a dependent do not qualify for the tax credit for tuition. “Tuition” also does not include expenses for Internet services or Internet upgrades to facilitate remote learning.

~~Amounts paid to an individual or organization for home schooling of a dependent or the teaching of a dependent outside of an elementary or secondary school may not be claimed for purposes of the tuition and textbook tax credit.~~

42.4(2) Textbooks. For purposes of the tuition and textbook tax credit, “textbooks” means books and other instructional materials used in elementary and secondary schools in Iowa to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. “Textbooks” includes fees or charges ~~by the elementary or secondary school~~ for required supplies or materials for classes in art, home economics, shop, or similar courses. “Textbooks” also includes books and materials used for extracurricular activities, such as sporting events, musical events, dramatic events, speech activities, driver’s education, or programs of a similar nature.

“Textbooks” does not include amounts paid for books or other instructional materials used in the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrine, or worship. ~~“Textbooks” also~~ For tax years beginning before January 1, 2021, “textbooks” does not include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school. For tax years beginning on or after January 1, 2021, “textbooks” does include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school if that dependent is receiving private instruction. To qualify for the tuition and textbook tax credit, the textbook must be one used in an accredited elementary or secondary school in Iowa.

42.4(3) Extracurricular activities. For purposes of the tuition and textbook tax credit, amounts paid for dependents to participate in or to attend extracurricular activities may be claimed as part of the tuition

and textbook tax credit. “Extracurricular activities” includes sporting events, musical events, dramatic events, speech activities, driver’s education if provided at a school, and programs of a similar nature.

a. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that may qualify for the tuition and textbook tax credit:

- (1) Fees for participation in school sports activities.
- (2) Fees for field trips if the trip is during school hours.
- (3) Rental fees for instruments for school bands or orchestras but not rental fees in rent-to-own contracts.
- (4) Driver’s education fees, if paid to a school.
- (5) Cost of activity tickets or admission tickets to school sporting, music, and dramatic events.
- (6) Fees for events such as homecoming, winter formal, prom, or similar events.
- (7) Rental of costumes for school plays.
- (8) Purchase of costumes for school plays if the costumes are not suitable for street wear.
- (9) Purchase of track shoes, football shoes, or other athletic shoes with cleats, spikes, or other features that are not suitable for street wear.
- (10) Costs of tickets or other admission fees to attend banquets or buffets for school academic or athletic awards.
- (11) Trumpet grease, woodwind reeds, guitar picks, violin strings, and similar types of items for maintenance of instruments used in school bands or orchestras.
- (12) Band booster club or athletic booster club dues, but only if dues are for the dependent attending the school and not the parent or adult.
- (13) Rental of a formal gown or tuxedo for a school dance or other school event.
- (14) Dues paid to school clubs or school-sponsored organizations such as chess club, photography club, debate club, or similar organizations.
- (15) Amounts paid for music that will be used in school music programs, including vocal music programs.
- (16) Fees paid for required general materials for shop class, agriculture class, home economics class, or auto repair class and general fees for equivalent classes.
- (17) Fees for a dependent’s bus trips to attend school if paid to the school.
- (18) Costs of school-associated band or athletic uniforms.
- (19) Costs of instrument lessons at a school.

b. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that will not qualify for the tuition and textbook credit.

- (1) Purchase of a musical instrument used in a school band or orchestra.
- (2) Purchase of basketball shoes or other athletic shoes that are readily adaptable to street wear.
- (3) Amounts paid for special testing such as SAT or PSAT, and for Iowa talent search tests.
- (4) Payments for senior trips, band trips, and other overnight school activity trips which involve payment for meals and lodging.
- (5) Fees paid to K-12 schools for courses for college credit.
- (6) Amounts paid for T-shirts, sweatshirts, and similar clothing that is appropriate for street wear.
- (7) Amounts paid for special programs at universities and colleges for high school students.
- (8) Payment for private instrumental lessons, voice lessons, or similar lessons.
- (9) Amounts paid for a school yearbook, annual, or class ring.
- (10) Fees for special materials paid for shop class, agriculture class, auto repair class, home economics class, and similar classes. For purposes of this paragraph, “special materials” means materials used for personal projects of the dependents, such as materials to make furniture for personal use, automobile parts for family automobiles, and other materials for projects for personal or family benefit.
- (11) Purchase of a formal gown or tuxedo for a school dance or other school event.
- (12) Amounts paid for sports-related social events.

42.4(4) No change.

This rule is intended to implement Iowa Code section 422.12 as amended by 2021 Iowa Acts, House File 847.